

MT LEGISLATIVE HISTORY

Chapter 218 19 74

Bill H 667 S _____

Original bill & hist. C

H. Committee on Ag., Livestock, & Irrig.

S. Committee on Ag., Livestock, & Irrig.

Hearing Date(s) 2-27 C

Hearing Date(s) 1-28 C

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2-6 C

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Date Out 2-27 C

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Did this bill originate in an interim committee? Yes No

Committee

Report

AGRICULTURE, LIVESTOCK
AND IRRIGATION COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB 449	REORGANIZING THE DEPT. OF AGRICULTURE.	1-8-74	Tabled 1-21-74	Edland			
HB 563	PROVIDING FOR THE REMOVAL OF WHOLESALE AND RETAIL MILK PRICE CONTROL FROM THE MONT. MILK CONTROL ACT WHILE RETAINING FLEXIBLE PRICE CONTROL FOR PRODUCERS ONLY.	1-8-74		Nichols	1-14-74	do not pass	
HB 617	AN ACT FOR THE REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF AGRICULTURE.	1-8-74 2-6-74	1-28-74	Lund	2-1-74 2-7-74	do pass as amended Do pass as amended	
HB 601	AN ACT TO TRANSFER CER- TAIN FUNCTIONS OF THE DEPT. OF LIVESTOCK AND THE DEPT. OF HEALTH & ENVIRONMENTAL SCIENCES, REPEALING SEC. 8-4-1097 & 3-28-1094, R.C.M. 1997.	1-8-74		Hall	1-14-74	do not pass	
HB 711	REQUIRE THE STOCK INSPE- CTORS AND DETECTIVES HIRED BY THE BOARD OF LIVESTOCK TO PASS A QUALIFYING EXAMINATION	1-9-74	1-14-74	Brand, Prevost	1-14-74	do pass	
HB 706	DIRECTING THE DEPARTMENT OF AGRICULTURE TO STUDY SALINE SHEEP AND DEVELOP PROGRAMS TO PREVENT OR REDUCE DAMAGE DONE BY SALINE SHEEP.	1-10-74	1-23-74	Murphy, Baucus	2-1-74	do pass	

January 28, 1974

The Agriculture, Livestock, and Irrigation Committee was called to order by Chairman Fleming at 5:35 p.m., with all members present except Rep. Clemow.

Rep. Lund, chief sponsor of H.B. 617, was present to explain the bill. He stated that the mechanics of the bill were wrong and he had asked the Legislative Counsel to redraw the bill before the committee took any action on it. He felt that the bill as it was written would not be able to pass the House floor.

Mr. Patrick Melby from the Governor's office had some amendments to the bill. These amendments generally excluded parts of the bill that had been repealed or amended in other bills. He said there would be a few changes in the amendments but if the committee passed the bill with these amendments it would save a lot of time by not having to wait to redraft the bill.

Rep. Hager questioned a portion of the bill and it will be included with the amendments if necessary. (attached are the amendments and a explanation of the bill)

Rep. Gunderson moved H.B. 617 be amended and as amended, do pass. It was seconded by Rep. Edland. The motion passed unanimously.

Rep. Brand, sponsor of H.B. 804, was present to explain the bill and make some amendments to the bill. The amendments Rep. Brand wanted made were to strike the word "commercial" throughout the bill, lines 9,13,15, and 23. In the title he wanted to amend line 5, after the word "OF" by striking the word "A" and lines 5 & 6 after the word "FEEDLOT" by striking the words "OF A LIVESTOCK DEALER". Rep. Brand went on to say the reason for this bill was to protect the people taking livestock to the feedlots. Under this law if a animal dies it has to be verified before being disposed of.

William Cheany, Department of Livestock, was present as a proponent to the bill. He asked that the bill be further amended on page 1, line 11, after the word "owner" by inserting the words "or operator". Mr. Cheany continued by stating that he was in favor of this bill. His department had some problems in the past concerning these dead animals. At one time he said they had to dig up 200 head of cattle to verify the fact they were there. If this law was passed there wouldn't be problems like that.

The following people went on record as being proponents to H.B. 804: Dave Smith, Montana Wool Growers Association, Everett Snortland, Montana Farm Bureau, Mons Teigen, Montana Stockgrowers Association.

Questions were asked and discussion on H.B. 804 was closed.

Rep. Hageman moved H.B. 804 be amended and as amended, do pass. It was seconded by Rep. Staig Miller. The motion was passed unanimously.



State of Montana
Office of The Governor

Government Operations Unit
State Capital - Helena, Montana - 59601
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THOMAS L. JUDGE
GOVERNOR

January 24, 1974

RICHARD J. LLEWELLYN
DIRECTOR

MEMORANDUM

TO: House Standing Committee on Agriculture, Livestock, and Irrigation

FROM: Patrick E. Melby, Staff Attorney

SUBJECT: House Bill 617 -- Recodification of the Laws of the Department of Agriculture

Attached are proposed amendments to the Department of Agriculture recodification bill, House Bill 617.

Most changes are required to conform to legislation enacted in 1973. All the proposals have been reviewed and concurred in by members of the Department and other interested parties. To make each proposed amendment easier to comprehend, I have numbered each one and drafted short explanations as follows:

1. Section 3-101.1 was repealed by Senate Bill 73 (a constitutional implementation act), therefore this section should be removed from the bill.
2. Section 3-228 was repealed by House Bill 72, therefore all references to this section should be removed.
3. Section 3-233 was amended by House Bill 231, which made all the changes proposed in H.B. 617, therefore all references to that section should be removed. Otherwise, H.B. 617 would have to be amended to reflect changes made to that section in 1973.
4. Sections 3-301 through 3-309 were repealed by Senate Bill 86, therefore, all references to these sections should be removed.
5. Senate Bill 407 repealed Section 3-806 and made all the recommended changes in 3-807, 3-808, 3-810 through 3-813, and Section 3-815, therefore, all references to these sections should be removed.
6. Sections 3-2012 through 3-2024 were repealed by House Bill 468, therefore, all references to these sections must be removed.
7. Senate Bill 276 added extensive new material to Sections 16-4201, 16-4205, and 16-4209 and also made all the recommended changes.
8. See No. 2 above.

9. See No. 4 above

10. Senate Bill 44 amended Section 3-512 by making this change.

11 through 24. Senate Bill 407 amended Sections 3-807 through 3-820 but did not make the changes proposed in H.B. 617.

25. See No. 6 above.

26 through 28. Section 3-2917 was amended by House Bill 231, therefore, those changes must be made in House Bill 617.

29. See No. 7 above.

30 and 31. Senate Bill 187 amended Section 27-216 making these changes.

32 through 46. These sections, 82-805 through 82-810, all were amended by Senate Bill 396, however, H.B. 617 proposed to recodify these sections in Title 3 and all necessary changes were not made by S.B. 396, therefore, these sections must be amended to reflect changes made in 1973.

47. See No. 1 above.

48. See No. 5 above.

The following amendments are not necessary to reflect 1973 legislation but will correct or prevent ambiguities.

49. Section 82-1501, relating to the State Board of Hail Insurance, still refers to the Commissioner of Agriculture, Labor and Industry. Also, the section has some conflicting provisions concerning the length of terms. The obsolete and conflicting language should be corrected.

50. This amendment would be consistent with existing law in Section 3-107.

51. This amendment would reinsert language in Section 3-107 which was inadvertently deleted.

52. This would simply replace an archaic word with a more modern one in Section 3-107.

53. This amendment in Section 3-107 was requested by the department because "agriculture" is a more encompassing term than "farming"

54. This word was inadvertently left in.

55. This change was requested because the old term in Section 3-1718 is obsolete.

56. This language in Section 3-1722 was inadvertently deleted.

57. The word "and" in Section 3-1722 was inadvertently deleted.

58. This language in Section 3-1724 is redundant.

59. The word "committee" is the correct term when referring to the Fertilizer Advisory Committee.

60 through 62. This section deals with the creation of the Fertilizer Advisory Committee which is made up of educators and advises Montana State University, therefore, it should be codified in the chapter dealing with the Department of Education, Chapter 5, rather than Chapter 3.

63. This amendment is needed so that persons using the codes would know where to find the creation of the Wheat Research and Marketing Committee.

64 and 65. This amendment is necessary to place the correct section number on this section.

66. See No. 49 above.

67. The correct term for the department head of the Department of Agriculture if this bill passes is "director".

February 6, 1974

The Agriculture, Livestock & Irrigation Committee was called to order by Chairman Fleming at 4:30 p.m., with all members present except, Rep. Ellerd and Rep. Kolstad. (excused)

Margaret Borg, Legislative Council, was present to explain why H.B. 617 was referred back to committee. There were more amendments that needed to be made to update the bill from 1973. These amendments were presented to the committee for their consideration.

Rep. Hageman moved H.B. 617, do pass as amended. It was seconded by Rep. Gunderson. The motion was passed unanimously.

Rep. Holtz, chief sponsor of H.B. 895, was present to explain the bill. He stated there was not enough time to draft the bill properly by the deadline for introducing bills, so this bill was introduced as written. He then proposed amendments to the bill which would strike the bill in its entirety and read as proposed. (amendments attached) He stated that many of the custom combiners that have been coming into Montana would no longer come if the tax was not lowered. Other states, and the rates they taxed were stated. The highest was \$25.00. By the old law Montana was charging \$148.20. Under H.B. 895, the rate would total \$75.00, which is still higher than the other states.

Rep. Wallace Edland, District 4, was present as a proponent to H.B. 895. He stated he was in full support of the bill and it was in conjunction with his taxation bill which had passed 3rd reading in the House.

Rep. Huennekens, chief sponsor of H.B. 1042, was present to explain the bill. He stated the original Green Belt Act was proposed to include those people with small plots of ground being used for agricultural purposes. This bill would give these people a tax brake and allow them to continue without being taxed as high as land that was to be subdivided.

Rep. Driswll, Ravalli County and Rep. Colberg, were present in support of H.B. 1042. They were concered with protecting those people from high taxes, when they were using their land for agricultural purposes and to prevent those who would subdivide later from getting the tax brake.

Rep. Burnett, chief sponsor of H.B. 1070, was present to explain the bill. He stated that his bill had to do with the Green Belt Act also. It was decided that a subcommittee would be appointed to compine the two bills along with a senate bill 507, to made on bill consisting of all the provisions necessary.

Rep. Hager moved H.B. 648, do not pass. It was seconded by Rep. Galt. The motion was passed, with one opposed.

Rep. Hageman moved the meeting be adjourned. It was seconded and passed unanimously.

Adjourned at 5:45 p.m.

Respectfully submitted

James F. Fleming, Jr.
James F. Fleming, Jr., Chairman

SECOND HALF FORTY THIRD LEGISLATIVE SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, AND IRRIGATION

HOUSE	ENTERED	DATE	OUT OF	DO PASS	DO NOT	DO PASS	BE CON-	BE CON-	BE NOT CON-
BILL NO.	COMM.	CONSIDERED	COMM.	DATE	PASS	AS AMEND.	CURRED IN	AS AMENDED	CURRED IN
					DATE	DATE	DATE	DATE	DATE
HB 132	held over	1-18	1-23						1-23
HB 617	2-20	2-27	2-27				2-27		
HB 634	2-22	3-1	3-4					3-4	
HB 715	1-19	1-30	1-30					1-30	
HB 755	2-8	2-12 2-27	2-20 2-1					3-1	
HB 762	1-24	2-6					2-6		
HB 804	2-5	2-13	2-13				2-13		
HB 850	2-22	3-1	3-4						3-4
HB 852	2-11	2-20	2-20					2-20	
HB 870	2-5	2-13	2-13					2-13	
HB 895		2-27	transferred						
HB 941		2-27	transferred						

(Use Separate Sheet for Senate, House Bills, and Resolutions)

SENATE COMMITTEE

ON

AGRICULTURE, LIVESTOCK, AND IRRIGATION

Minutes

February 27, 1974

The Agriculture, Livestock, and Irrigation Committee meeting was called to order by Chairman Graham on the above date at 8:20 a.m. in Room 415 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Boylan, Harrison and McCallum.

CONSIDERATION OF HOUSE JOINT RESOLUTION 79:

Representative Robert Ellerd from District 11, chief sponsor of the resolution, said that this would be a request for a study relating to the marketing of livestock. He said the laws relating to this were passed in 1921 and due to changes and advancements the laws need to be studied. He said this resolution has had the support of the Montana Stockgrowers, Montana Woolgrowers and the Montana Farm Bureau and that it had gone through the House with no problem.

CONSIDERATION OF HOUSE BILL 617:

Representative Art Lund stated that this bill had been introduced last session, but had been held over. He stated that there had been a lengthy amount of amendments passed in the House and asked Mr. Pat Melby, staff attorney, government operations, from the Governor's Office to explain these. Mr. Melby stated that these amendments were patterned after the executive reorganization act. It abolished the former Department of Agriculture and transferred the duties and functions to a new department. He went through the different things that had been abolished and transferred. He stated that there were a few substantive changes and went through these. He had gone through the bill with people from the Department of Agriculture and they had agreed with the changes.

Margaret Borg from the Legislative Council stated she had gone through the bill section by section and that many sections had been repealed, mainly because they were not being enforced or they were outdated.

George Lackman, Commissioner, of the Department of Agriculture supported what had already been said and stated that his department supported the bill as it was presented.

DISPOSITION OF HOUSE BILL 617:

Senator McOmber moved that House Bill 617 BE CONCURRED IN. Seconded by Senator Goodheart. Vote was unanimous.

Proposed Amendments to Conform H.B. 617 to Legislation Enacted in the 1973 Session

1. Amend on page 1, line 4, by deleting the punctuation and figures " , 3-101.1, 3-102"
2. Further amend on page 1, line 6, after the figure and punctuation "3-227" by inserting the figure "3-229"
3. Further amend on page 1, line 7, by deleting the figure "3-233" and inserting in lieu thereof the figure "3-232"
4. Further amend on page 1, line 7, by deleting the following:
"3-301, 3-302, 3-304, 3-306, 3-308,"
5. Further amend on page 1, line 10, by deleting the words and figures "3-805 THROUGH 3-815" and inserting the following:
"3-805, 3-809, 3-814"
6. Further amend on page 1, after the figure "3-1911" on line 17 and continuing through the figure and punctuation "3-2024," on line 18, by deleting the material therein in its entirety
7. Further amend on page 1, lines 21 and 22, by deleting the punctuation and figures "16-4201, 16-4205, 16-4209,"
8. Further amend on pages 25 through 28, beginning with line 7 on page 25 and continuing through line 24 on page 28, by deleting the material therein in its entirety
9. Further amend on pages 35 through 39, beginning with line 4 on page 35 and continuing through line 25 on page 39, by deleting the material therein in its entirety
10. Further amend on page 41, after the word and punctuation "warehouseman," on line 5 and continuing through the word "settlement" on line 7, by deleting the material therein in its entirety and inserting the following:
"A fee commensurate with the cost of each protein test shall be made, to be deducted and paid at the time of final settlement."
11. Further amend on pages 52 and 53, beginning with line 17 on page 52 and continuing through line 22 on page 53, by deleting the material therein in its entirety
12. Further amend on pages 54 through 56, beginning with line 16 on page 54 and continuing through line 3 on page 56, by deleting the material therein in its entirety

13. Further amend on page 57, line 12, by deleting the word "flowering"
14. Further amend on page 57, line 15, by deleting the word "ox-eye" and inserting in lieu thereof the word "oxeye"
15. Further amend on page 57, line 14, by deleting the parens and phrase "(Klamath-weed)"
16. Further amend on page 57, line 17, by deleting the word "false"
17. Further amend on page 57, line 21, by deleting the word "Curled" and inserting in lieu thereof the word "Curly"
18. Further amend on page 58, line 21, by deleting the term "fine-leaved" and inserting in lieu thereof the term "fine-textured"
19. Further amend on page 58, line 24, by deleting the term "fine-leaved" and inserting in lieu thereof the term "fine-textured"
20. Further amend on page 59, line 2, by deleting the term "fine-leaved" and inserting in lieu thereof the term "fine-textured"
21. Further amend on page 59, line 4, by deleting the term "fine-leaved" and inserting the term "fine-textured"
22. Further amend on page 59, line 8, by deleting the material therein after the word and punctuation "compressa)" and continuing through the word and parens "annua)" and inserting the following:

"Annual Bluegrass (*Poa annua*) and Rough Bluegrass (*Poa trivialis*)"
23. Further amend on page 59, line 12 by deleting the word "fine-leaved" and inserting the word "fine-textured"
24. Further amend on page 59, line 12, following the word and punctuation "Ryegrasses," and beginning with a new paragraph by inserting the following:

"(6) The labeling, advertising or other representation subject to this act represents the seed to be certified seed of any class thereof unless:

(a) it has been determined by a seed certifying agency that such seed conformed to standards of purity and identity as to kind, species (and subspecies, if appropriate) or variety; and

(b) that the seed bears an official label issued for such seed by a seed certifying agency certifying that seed is of a specified class and a specified kind, species (and subspecies, if appropriate) or variety.

(7) Is labeled with a variety name for which a U.S. certificate of plant variety protection has been issued or applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321 et. seq.), without the authority of the owner of the variety; or is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which the certificate or application for "protection" specified sale only as a class of certified seed; provided, that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with approval of, the owner of the variety."

25. Further amend on pages 123 through 143, beginning with line 20 on page 123 and continuing through line 25 on page 143, by deleting the material therein in its entirety
26. Further amend on page 154, after the word "There" on line 3 and continuing through the word "~~receiving~~" on line 6, by deleting the material therein in its entirety and inserting the following:
- "shall be an account in the federal and private revenue fund known as the wheat research and marketing"
27. Further amend on page 154, by deleting the material contained in lines 19 and 20 in its entirety
28. Further amend on page 154, line 21, after the parens and figure "(4)" by inserting the parens and figure "(3)"
29. Further amend on pages 157 through 160, beginning with line 3 on page 157 and continuing through line 3 on page 160, by deleting the material therein in its entirety
30. Further amend on page 161, line 13, after the word and punctuation "plants," by inserting the word and punctuation "seed."
31. Further amend on page 161, after line 21, by inserting the following:
- "(e) (8) "Public utility applicator" means a person applying pesticides to land and structures owned or leased by a public utility."
- and renumbering the subsequent subsections accordingly
32. Further amend on page 186, after the word "of" on line 23 and continuing through the word "~~neither~~" on line 23, by deleting the material therein and inserting the following:
- "the bees in the genus, *Apis*"
33. Further amend on page 188, line 7, after the figure and punctuation "3," by inserting the figure "2,"
34. Further amend on page 188, line 21, after the figure and punctuation "4," by inserting the figure "3,"
35. Further amend on page 189, line 8, by deleting the word "donor" and inserting in lieu thereof the word "owner"
36. Further amend on page 189, line 16, after the figure and punctuation "5," by inserting the figure "4,"
37. Further amend on pages 189 and 190, after the word "apiary" on line 16 of page 189 and continuing through line 3 on page 190, by deleting the material therein in its entirety and inserting the following:
- " , hives, equipment or ~~premise~~ premises for the presence of disease."

38. Further amend on pages 193 and 194, beginning with line 17 on page 193 and continuing through line 7 on page 194, by deleting the material therein in its entirety and inserting the following:

"8. (8) Suitable evidence of registration furnished by the department shall be posted in a conspicuous place at or near the location of the colony of honey bees or beehives. If an owner has more than one location, suitable evidence of registration furnished by the department shall be posted at each location."

39. Further amend on page 195, line 5, after the word "equipment" by inserting the following:

~~"or equipment by reason of its physical condition or construction cannot be inspected"~~

40. Further amend on page 195, line 15, after the word and punctuation "property," by inserting the following:

~~"If the owner or person in charge cannot be located, a registered letter sent to the owner's last address registered with the department is sufficient notice under this section."~~

41. Further amend on page 196 - beginning with line 9 and continuing through line 13, by deleting the material therein in its entirety and renumbering the subsequent subsection accordingly

42. Further amend on page 197, line 7, after the word "equipment," by inserting the following:

"or equipment which by reason of its physical condition or construction cannot be inspected,"

43. Further amend on page 198, beginning with line 4 and continuing through line 10 by deleting the material therein in its entirety and by inserting the following:

"1 to 10 colonies of bees	\$ 2.50
11 to 50 colonies	5.00
51 to 200 colonies	10.00
201 to 300 colonies	15.00
301 to 500 colonies	20.00
501 to 1000 colonies	30.00
1001 to 2000 colonies	35.00
2001 to 3000 colonies	45.00
3001 to 4000 colonies	55.00
4001 to 5000 colonies	65.00
5001 colonies and upward	75.00"

44. Further amend on page 198, beginning with line 16 and continuing through line 19, by deleting the material therein in its entirety

Further amend on page 199, line 10, after the figure "4" by inserting the figure "3."

46. Further amend on page 199, after the word "equipment" on line 19, by inserting the following:

~~"provided-in-this-section"~~

47. Further amend on page 230, line 2, by deleting the punctuation and figures ", 3-101.1, 3-102"

48. Further amend on page 230, line 6, by deleting the figure and punctuation "3-806,"

Proposed Amendments to H.B. 617

59. Amend on page 1, line 24, after the figure and punctuation "82-814," by inserting the figure and punctuation "82-1501,"
50. Further amend on page 3, line 18, by deleting the word "Maintain" and inserting in lieu thereof the words "Have the authority to maintain"
51. Further amend on page 4, line 10, after the word "without" by inserting the words "hardship, waste or fraud"
52. Further amend on page 4, line 17, by deleting the word "country" and inserting the word "rural" in lieu thereof
53. Further amend on page 6, line 3, by deleting the word "farming" and inserting the word "agriculture" in lieu thereof
54. Further amend on page 110, line 18, by deleting the word "of"
55. Further amend on page 111, line 2, by deleting the word "agricultural" and inserting in lieu thereof the word "analytical"
56. Further amend on page 113, line 2, after the word and punctuation "properly," by inserting the words "shall publish at least annually"
57. Further amend on page 113, line 4, after the word "and" by inserting the word "and"
58. Further amend on page 118, line 1, by deleting the words "composition of a lot of"
59. Further amend on page 119, line 25, by deleting the word "council" and inserting in lieu thereof the word "committee"
60. Further amend on page 120, line 1, by deleting the figure "82A-306" and inserting in lieu thereof the figure "82A-513"
61. Further amend on page 120, line 4, by deleting the figure "82A-306" and inserting in lieu thereof the figure "82A-513"
62. Further amend on page 120, line 5, by deleting the figure "82A-306" and inserting in lieu thereof the figure "82A-513"
63. Further amend on page 148, between lines 13 and 14, by inserting the following:
Section 130A. Section 3-2904, R.C.M. 1947, is amended to read as follows:

"3-2904. Definitions. As used in this act, unless the context otherwise requires otherwise:

(1) "Committee" means the ~~administrative-committee-hereby-established-to-be-known-as-the~~ Montana wheat research and marketing committee provided for in Section 211-304.

(2) "owner" means any landowner personally engaged in growing wheat, a tenant of the landowner personally engaged in growing wheat, or both the owner and the tenant jointly; and includes a person, partnership, association, corporation, co-operative, trust, sharecropper, and any and all other business units, devices, and arrangements.

(3) "First purchaser" means any person, public or private corporation, association, or partnership, buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, where the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) "Commercial channels" means the sale of wheat for any use, when sold to any commercial buyer, dealer, processor, co-operative, or to any person, public or private, who resells any wheat or product produced from wheat; and

(5) "Sale" includes any pledge or mortgage of wheat, after harvest to any person, public or private."

64. Further amend on page 186, line 5, by deleting the figure "3-301" and inserting in lieu thereof the figure "3-3101"
65. Further amend on page 186, line 6, by deleting the figure "3-301" and inserting in lieu thereof the figure "3-3101"
66. Further amend on page 203, between lines 6 and 7, by inserting the following:

"Sec. 163A. Section 82-1501, R.C.M. 1947, is amended to read as follows:

'82-1501. State board of hail insurance--creation and powers--insurance, how effected. (1) There is hereby created a state board of hail insurance of five members consisting of the state treasurer, and the ~~commissioner~~ director of agriculture, ~~labor and industry~~, who ~~will be~~ is secretary of state ~~the~~ board, and three other members to be appointed by the governor from the names submitted ~~therefor~~ by the ~~duly-organized~~ farmer societies organizations having a general membership throughout the state. The governor shall designate one of ~~said~~ the appointive members to ~~serve for three years to~~ act as chairman of the board; ~~one to serve for a term of two years, and one to serve for a term of one year.~~ Whenever the term of any member shall ~~expire~~, expires, either by death, resignation, or removal for cause, or expiration of his term of office, the governor shall appoint his successor, and shall also appoint one of the board for chairman in case of a vacancy in that office.

(2) Each appointive member of the board shall be appointed for three years, except where such appointment is made to fill a vacancy on the board, in which event such appointee shall fill out the unexpired term of the member whose place he fills. All members of the board shall be subject to removal for cause by the governor; the said board shall hold meetings when necessary and essential for the proper conduct of its business, at the state capitol in the office of the secretary, and is hereby authorized, directed and empowered to make such rules and regulations as it may from time to time find practical, necessary and beneficial for the conduct of the department of hail insurance, subject to the provisions administration of this act. It shall have full charge of said department as herein provided for; it shall prepare prescribe blank forms for all purposes necessary, proper and incidental to the effective operation and enforcement of this act; and furnish such forms to all public officers respectively charged with the performance of any official duty in connection therewith; it shall prepare prescribe a special form outlining the purposes, scope and benefits of this act in furnishing protection against loss by hail, at the actual cost of the risk to all taxpayers who may elect to become subject to the provisions of this act, and the form to be submitted by the agent of the department of revenue in each county at the time in which the regular assessments of property are made by such the agents made, to each farmer in each county in the state engaged in growing of crops subject to injury or destruction by hail, on which forms each such farmer taxpayer shall signify whether he desires to become subject to the provisions of this act or not.

(3) Every and farmer taxpayer who signifies his desire to become subject to the provisions of this act, shall file in the office of the county assessor the blanks above referred to, properly filled out form not later than August 15th, and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, hereinafter provided for, and shall share in the protection and benefits under the hail insurance provisions of this act. Such application for hail insurance shall be in full force and effect at noon the day following the acceptance of same by the county assessor. Provided, however, that this act shall not be so construed as to empower anyone except the actual owner of the land to make such land subject to the hail tax provided in this act."

67.

Further amend on page 206, line 3, by deleting the word "commissioner" and inserting in lieu thereof the following words "director of the department"

tained. The division is authorized to contract the equipment maintenance if it is in the state's best interest. The division shall maintain cost records and bill agencies for services rendered.

(6) To provide assistance to the legislature, governor and state agencies relative to state and interstate communication matters.

(7) To provide a means whereby political subdivisions of the state may utilize the state communications system, upon such terms and under such conditions as the division may establish.

(8) To accept federal funds granted by Congress or by executive order for all or any purposes of this act, as well as gifts and donations from individuals and private organizations or foundations.

(9) *To assist in providing interconnecting telecommunications relays among facilities of the educational broadcasting commission."*

Section 7. Sections 75-5710 and 75-5711, R.C.M. 1947, are repealed.

Section 8. This act is effective upon its passage and approval.

Approved March 14, 1974

CHAPTER NO. 216

AN ACT TO ALLOCATE STATE CONSTRUCTION FUNDS TO MATCH FEDERAL-AID HIGHWAY FUNDS AVAILABLE FOR SAFETY CONSTRUCTION PROGRAMS.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 32-2613, R.C.M. 1947, which reads as follows:

32-2613. **Allocation for safety construction programs.** Annually beginning July 1, 1974, and at the beginning of each fiscal year thereafter, the department of highways shall allocate available state construction funds to match federal-aid highway funds made available by the Federal-Aid Highway Act of 1973 for the following safety construction programs: rail-highway crossings, high hazard locations, elimination of roadside obstacles, safer roads demonstration and pavement marking demonstration. Such allocation shall be made from available state construction moneys before the apportionments provided for in sections 32-2606, 32-2607 and 32-2611, R.C.M. 1947.

Approved March 14, 1974.

CHAPTER NO. 217

AN ACT SUPPLEMENTING THE CORRUPT PRACTICES ACT, TITLE

23, CHAPTER 47, R.C.M. 1947, BY PROVIDING THAT A POLITICAL COMMITTEE MUST FILE AN ORGANIZATIONAL STATEMENT WITH THE SECRETARY OF STATE, COUNTY CLERK OR CITY CLERK BEFORE IT MAY EXPEND OR CONTRACT TO EXPEND ANY FUNDS; AND PROVIDING A PENALTY.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 23-4728.1, R.C.M. 1947, which reads as follows:

23-4728.1. No political committee, as defined in section 23-4729, may expend or contract to expend any funds until fifteen (15) days after one of its officers executes and files or causes to be filed an organizational statement, properly acknowledged by a notary public, setting forth the names and addresses of all the officers of the political committee:

(1) with the secretary of state in case of a measure submitted to the voters of the state or involving state or district offices for districts composed of one (1) or more counties or involving the election of a candidate to the legislature;

(2) with the county clerk in case of measures involving counties or subdivisions thereof or county offices or offices of subdivisions thereof; and

(3) with the city clerk in case of measures involving municipalities or offices of municipalities.

(4) Whoever violates any provision of this section shall on conviction thereof be punished by imprisonment in the county jail for not more than six (6) months, or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

Approved March 15, 1974

CHAPTER NO. 218

AN ACT FOR THE REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF AGRICULTURE.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 3-106.1, R.C.M. 1947, which reads as follows:

3-106.1. **Definition.** Unless the context requires otherwise, in Title 3, "department" means the department of agriculture provided for in article XII, section 1 of the Montana Constitution and in Title 82A, chapter 3.

Section 2. Section 3-107, R.C.M. 1947, is amended to read as follows:

"3-107. **Duties of department.** The department shall:

(1) *Encourage* and promote the interests of agriculture, including horticulture and apiculture, and all other allied industries;

(2) *Collect* and publish statistics relating to the production and marketing of crops and other agricultural products so far as *the* information may be of value to the agricultural and allied interests of the state;

(3) *Assist*, encourage, and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, live-stock shows, or other exhibits of the products of agriculture;

(4) *Adopt* standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products;

(5) *Cooperate* with producers and consumers in devising and maintaining economical and efficient systems of distribution, and aid in the reduction of waste and expense incidental to marketing;

(6) *Have the* authority to maintain a market news service, including information as to crops, freight rates, commission rates, and other matters as may be of service to producers and consumers, *and act* as a clearing-house for information of *value to producers and consumers*;

(7) *Gather* and diffuse information concerning the supply, demand, prevailing prices, and commercial movement of farm products;

(8) *Investigate* the practices and methods of factors, commission merchants, and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, vegetables, or other farm products, so that distribution of *the* commodities is *accomplished* efficiently, economically, and without hardship, waste or fraud;

(9) *Cooperate* with Montana state university, the agricultural experiment station and the federal government for the betterment of the agricultural industries of the state, the improvement of rural life, and *promotion* of equality of opportunity for the farmers of the state;

(10) *Take* and hold in the name of the state of Montana property, real and personal, acquired by gifts, subscriptions, donations, and bequests;

(11) *Sell* and dispose of personal property owned by it in a manner the department may provide, when in the judgment of the department *the* sale or disposal best promotes the purposes for which the department is established;

(12) *Contract* in respect to any matter within the scope of its authority;

(13) *Enforce this title and all other laws for the protection and regulation of agriculture.*"

Section 3. Section 3-113, R.C.M. 1947, is renumbered section 3-24-138, and is amended to read as follows:

"3-24-138. Deceit in grade, measure or test of milk and cream unlawful. A person, firm, or corporation selling or delivering milk or cream, or receiving or purchasing milk or cream by weight, grade or Babcock test, or either, or by measure, grade or Babcock test, or either, may not with intent to deceive or defraud as to the weight, grade, measure

or Babcock test thereof, manipulate, change or alter *the* measure, Babcock test, grade or weight, or make or return to a person a false or inaccurate statement of *the* weight, grade, Babcock test or measure, or use a measure or grading or testing apparatus which does not comply with the standards of the department or which has been condemned as inaccurate."

Section 4. Section 3-114, R.C.M. 1947, is renumbered section 3-24-139, and is amended to read as follows:

"3-24-139. Penalty for violations — revocation of license. A person, firm, or corporation who violates section 3-24-138 is guilty of a misdemeanor and shall be *fin*ed not more than three hundred dollars (\$300) or *imprisoned* in the county jail for not more than two (2) months, or both *fin*ed and *imprisoned*. The department may revoke a license issued to a person, firm, or corporation upon conviction for violation of section 3-24-138."

Section 5. Section 3-116, R.C.M. 1947, is renumbered section 3-3001, and is amended to read as follows:

"3-3001. Intent of legislature. It is the intent of the legislature *that the department of agriculture* co-ordinate marketing from the initial producer to the consumer *and* reduce marketing cost by *assisting* both producer and industry to find ways to more efficiently market their products. The department shall also endeavor to develop new and improved systems of marketing which will result in the stabilization and improvement of returns for industry and the producer. *It shall* work with farm leaders, farmer co-operatives, processors, wholesalers, retailers, representatives of the transportation industry, consumer groups, and others as a means of correcting marketing inefficiencies or eliminating restrictions."

Section 6. Section 3-117, R.C.M. 1947, is renumbered section 3-3002, and is amended to read as follows:

"3-3002. Definitions. As used in this chapter unless the context requires otherwise:

(1) "Marketing" means *all* activities involved in getting agricultural products from the producer to the consumer and includes transportation, processing, and distribution.

(2) "Agricultural products" means crops, livestock, and livestock products."

Section 7. Section 3-119, R.C.M. 1947, is renumbered section 3-3003, and is amended to read as follows:

"3-3003. Department's marketing duties. The department shall:

(1) *Keep* abreast of research results in the subject matter area of marketing;

(2) *Coordinate* work with local, state, and national planning groups and other interested parties in helping them identify major problem areas and needs in marketing;

(3) *Develop* and carry out appropriate action programs that will result

in significant improvements being made by those people concerned with problems of marketing;

(4) *Coordinate* efforts with representatives of other agencies or organizations or persons who are concerned with related programs;

(5) *Investigate* the costs of marketing;

(6) *Gather* and disseminate information concerning supply, demand, favorable marketing information, prevailing prices, and changes in marketing movements, practices, and rates, including common and cold storage of food products;

(7) *Promote*, assist, and encourage the organization and operation of co-operative and other associations and organizations for improving the relations and services among producers, distributors, and consumers of food products;

(8) *Investigate* the practice and methods concerning the marketing of agricultural products;

(9) *Act* as mediator or arbitrator, when invited, in a controversy or issue that may arise between producers and distributors;

(10) *Assist* producers and distributors in the economical and efficient distribution of agricultural products at fair prices;

(11) *Appear* and be heard at any hearing involving agricultural marketing affecting Montana."

Section 8. Section 3-123, R.C.M. 1947, is renumbered section 3-3004, and is amended to read as follows:

"3-3004. **State agencies participating in marketing to co-operate.** All agencies of the state which participate in marketing shall co-operate with and assist the department."

Section 9. Section 3-205, R.C.M. 1947, is amended to read as follows:

"3-205. **Inspectors of grain—samplers and weighers—qualifications—interest.** The department shall provide inspectors, samplers, and weighers to enforce this act. At all inspection points designated by the department, the department shall provide sufficient inspectors and weighers to inspect and weigh all grain subject to state inspection, under the supervision of the department. However grain held in transit for inspection and diversion only, need not be weighed. Inspectors shall be able to qualify under the terms and in accordance with the United States Federal Grain Standards Act. Inspectors, samplers, and weighers may not be interested directly or indirectly in the handling, sorting, shipping, purchasing, or selling of grain or grain products."

Section 10. Section 3-207, R.C.M. 1947, is amended to read as follows:

"3-207. **Designation of inspection points — inspectors.** Cities and towns where grain is received in carload lots may be designated by the department as inspection points, and be provided with state inspection and weighing. Expenditures for the inspection and weighing at the points

designated by the department may not exceed the receipts of fees at those points. The department may also assign inspectors to portions of the state it considers necessary. Inspectors shall inspect grain delivered in less than carload lots in the portions of the state to which they are assigned, shall furnish producers with an inspection which will enable them to determine the grade of their grain, and shall perform other duties the department prescribes."

Section 11. Section 3-208, R.C.M. 1947, is amended to read as follows:

"3-208. **Charges of public warehousemen.** (1) Public warehousemen subject to this chapter, for the handling or storage of grain, shall charge:

(a) Not more than four cents (4¢) per bushel for receiving, elevating, weighing, and immediate delivery on car of the identical grain without mixing. Immediate delivery means that the total period of assemblage and delivery does not exceed seventy-two (72) hours.

(b) Four cents (4¢) per bushel, for all grains except flax, for receiving, grading, weighing, elevating, insuring, storing without charge for not more than fifteen (15) days, and delivering to the owner. For flax this charge shall be five cents (5¢) per bushel.

(c) Not more than five cents (5¢) per bushel for cleaning grain at the request of the owner where there are cleaning facilities, in which case screenings shall be delivered to the owner.

(d) One-thirtieth (1/30) of one cent (.01) per bushel for each day in storage after period of free storage has elapsed.

(2) A twenty-five per cent (25%) reduction for the charges shall be allowed when the market price of wheat sold at point of origin is at time of sale less than fifty cents (50¢) per bushel.

(3) The schedule of charges for cleaning shall be posted in a conspicuous place where grain is unloaded for cleaning.

(4) Failure on the part of a public warehouseman to comply with this chapter renders the licenses of the warehouseman subject to revocation by the department."

Section 12. Section 3-209, R.C.M. 1947, is amended to read as follows:

"3-209. **Establishment of standard grain grades — procedure.** (1) The department shall establish standard grades to apply to all grain bought or handled by public warehouses in this state. The department shall adopt as state grade standards all grades for grain established by the United States department of agriculture. Standards for grain shall be established by the department after notice and a public hearing. Notice shall be published in three (3) newspapers of the state at least twenty (20) days before the hearing.

(2) Grade standards, or any alteration or modification of those standards which the department may establish, are not effective within thirty (30) days after publication, except for grades established by the United States department of agriculture, which are effective ten (10) days after publication.

(3) *The grain standards adopted by the department do not apply to grain contracted for before their effective date.*

(4) *The fees and mileage for witnesses shall be paid out of moneys deposited under section 3-233."*

Section 13. Section 3-210, R.C.M. 1947, is amended to read as follows:

"3-210. **Rules governing dockage — sample inspection.** The department shall, after the hearing provided in section 3-209, adopt rules governing the dockage which shall be made on inferior grades and in all executory contracts entered into after the hearing. The rules may not conflict with the terms of the United States Federal Grain Standard Act. Where the price or amount to be paid depends upon terminal weight or grade, the rules shall control the dockage in so far as it affects the price to be paid, and the rules become part of the contract of sale. The department shall also provide for sample inspection of grain, adopt rules governing sample inspections, and provide that the sample inspection when made is final."

Section 14. Section 3-211, R.C.M. 1947, is amended to read as follows:

"3-211. **Appointment of inspectors.** The department shall, during the grain-marketing season, appoint inspectors to visit the grain-growing districts for the purpose of investigating grain grading, dockage, and weighing, and enforcing the rules of the department."

Section 15. Section 3-212, R.C.M. 1947, is amended to read as follows:

"3-212. **Copies of grades and rules to be furnished warehousemen — display of them.** (1) *The department shall, immediately after the establishment of grades and the adoption of rules fixing dockage, supply all public warehousemen with a copy of the grades and rules. A public warehouseman shall keep a copy on file in a convenient place in every warehouse. If an office is maintained in connection with the warehouse, a copy of the grades and rules shall be kept on file in the office. A placard notice shall be posted in a conspicuous place in every warehouse and office, reading: "A copy of Montana grades and rules is on file here for information of interested parties."*

(2) *A warehouseman shall exhibit a copy of the grades and rules to any interested party at any warehouse or office, and permit the interested party to examine the copy."*

Section 16. Section 3-213, R.C.M. 1947, is amended to read as follows:

"3-213. **Fees for inspection, testing, and weighing grain.** The department shall fix the fees for inspection, testing, and weighing of grain. Those fees are a lien upon the grain until paid."

Section 17. Section 3-215, R.C.M. 1947, is amended to read as follows:

"3-215. **Removal of inspectors, samplers, or weighers for misconduct.** Upon written complaint filed with the department, charging an inspector, sampler, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the department shall investigate the charges. If the charges are substantiated, the department shall remove that officer."

Section 18. Section 3-216, R.C.M. 1947, is amended to read as follows:

"3-216. **Appeals to department — hearing and order.** (1) *If an owner, consignee, or shipper of grain, or a warehouseman, disagrees with the grade given by the department, he may appeal to the department from the decision within ten (10) days from the date of certificate, by giving notice of appeal and paying a fee fixed by the department. The fee shall be refunded if the decision appealed from is sustained. The notice of appeal may be given by letter stating that the party appeals from the decision of the inspector and specifying the initials and numbers of the cars in which the grain was contained when inspected and graded.*

(2) *The appellant shall also file with the department a list containing the names and addresses of all parties interested in the subject matter. The department, upon receiving the notice and list of interested parties, shall immediately notify the parties interested of the time and place designated by it for a hearing. At the hearing, which shall be five (5) days from the date of receiving the notice, the department shall inquire into the reasonableness and correctness of the original grading. After the hearing, the department shall affirm or modify the grade as justified by the facts and evidence."*

Section 19. Section 3-217, R.C.M. 1947, is amended to read as follows:

"3-217. **Discrimination in charges by warehousemen prohibited.** A public warehouseman subject to this chapter may not directly or indirectly, by any special charge, rebate, drawback, or other device, demand, collect, or receive from any person a greater or lesser compensation for any service rendered in the handling or storage of grain, than he demands, collects, or receives from any other person for a similar and contemporaneous service, under substantially similar circumstances or conditions. A public warehouseman may not make or give any undue or unreasonable preference or advantage to any person, company, or corporation or subject any person, company, or corporation to any undue or unreasonable prejudice or disadvantage. A warehouseman who violates this section is guilty of a misdemeanor."

Section 20. Section 3-218, R.C.M. 1947, is amended to read as follows:

"3-218. **Duty of warehousemen to receive grain — warehouse receipt.** A public warehouseman shall receive for storage and shipment without discrimination of any kind, so far as the capacity of his warehouse will permit, all grain tendered him in the usual course of business in suitable conditions for storage. A warehouse receipt, in form prescribed by law and the rules of the department, shall be issued and delivered to the owner, or his representative, immediately upon receipt of the load or parcel of grain."

Section 21. Section 3-221, R.C.M. 1947, is amended to read as follows:

"3-221. **Kind and quality of grain to be delivered on return of receipt.** Upon the return of the receipt to the proper warehouseman, properly endorsed, and upon payment or tender of all advances and legal charges, grain of the grade agreed upon and of equal quality or value and quantity equal to that placed by him in storage, shall be delivered to the holder of the receipt. Delivery shall be made within forty-eight (48) hours after the facilities for receiving the grain have been provided. At

the option of the owner *the* warehouseman shall deliver *the* grain at terminal, or if mutually agreed, the equivalent market value *of the grain on that date*, less any freight and storage charges to terminal, and less other charges *which* may be allowed by the *department*. Owners of warehouse receipts surrendered for shipment shall furnish the warehouseman with written instructions regarding the capacity of cars to be ordered from the transportation company and the manner of loading and billing shipments made in *the* cars. The warehouseman shall load and bill all shipments in accordance with instructions given. *The warehouseman is* liable for the amount of excess freight paid *and* for other damages suffered by the owner of the warehouse receipt, resulting from failure to follow accurately the loading and billing instructions. *The owner of the warehouse receipt shall immediately furnish the warehouseman a duplicate copy of the original state weighmaster's certificate of weight of the carlot shipment at terminal.*"

Section 22. Section 3-222, R.C.M. 1947, is amended to read as follows:

"3-222. **Dispute as to grade or dockage — laboratory test to be made.** If a dispute or disagreement arises between the party receiving and the party delivering the grain at any public warehouse in this state as to the proper grade or dockage of grain, in accordance with standards at terminal points, an agreed average sample of at least one quart of *the* grain in dispute may be taken by the parties interested, and forwarded in a suitable container marked for identification by the interested parties, mail or express charges prepaid, with the names and addresses of the parties, to the *department*. *The department shall examine the grain and determine what grade the sample is entitled to under the inspection rules and which amount of dockage it contains. The findings of the inspection are binding upon both parties, subject to appeal, as provided in section 3-216.* If the grain in question is damp, musty, or otherwise out of condition, this fact, with any other necessary information, must accompany *the* sample."

Section 23. Section 3-227, R.C.M. 1947, is amended to read as follows:

"3-227. **Annual report of warehouseman, track buyer and grain dealer — special reports — penalty for failure to report.** On June 30 of each year every warehouseman, track buyer, and grain dealer shall make a report, under oath, to the *department*, on forms prepared by it. *The report shall show the total weight of each kind of grain received and shipped by the warehouseman, track buyer, and licensed grain dealer, the amount of outstanding storage receipts on that date, and a statement of the amount of grain on hand to cover them. The department may also require special reports from a warehouseman, grain dealer, or track buyer at any time. The department may inspect the business of every warehouseman, track buyer, and grain dealer and the method of conducting the business, whenever considered proper. The books, accounts, records, papers, and proceedings of every warehouseman, track buyer, and grain dealer are at all times during business hours subject to inspection. A person who knowingly falsifies any of its reports to the department, who fails to make the reports when requested by the department, or who refuses or resists inspection is guilty of a misdemeanor and shall be fined*

of not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500)."

Section 24. Section 3-229, R.C.M. 1947, is amended to read as follows:

"3-229. **Protection of holders of warehouse receipts by intervention of department of agriculture — authority of department — action on bond — attorney general and county attorneys to assist.** When a warehouseman, grain dealer, track buyer, broker, agent, or commission man cannot, or where there is a probability that he will not, meet in full all storage obligations or other obligations resulting from the delivery of grain, the department *shall* intervene in the interests of the holders of warehouse receipts or other evidences of delivery of grain for which payment has not been made. *The department may protect the interests of the holders of warehouse receipts or other evidences of the delivery of grain for which payment has not been made. When examination by the department discloses that it is impossible for a warehouseman, grain dealer, track buyer, broker, agent, or commission man to settle in full for all outstanding warehouse receipts or other evidences of delivery of grain for which payment has not been made, without recourse to the bond filed by the warehouseman, grain dealer, track buyer, broker, agent, or commission man, the department for the benefit of holders of unpaid warehouse receipts or other evidences of delivery for which payment has not been made, shall demand payment of its undertaking by the surety on the bond in an amount necessary for full settlement of warehouse receipts or other evidences of delivery for which payment has not been made. The attorney general or any county attorney of this state shall represent the department in a necessary action against a bond when facts constituting grounds for action are presented to him by the department.*"

Section 25. Section 3-230, R.C.M. 1947, is amended to read as follows:

"3-230. **Special inspection of grain.** (1) If grain is sold for delivery on Montana grade to be shipped from places not provided with state inspection under this *chapter*, the buyer, seller, or person making the delivery may have it inspected by notifying an inspector *who shall have the grain inspected, and after inspection issue on request of the buyer, seller, or person delivering it an inspector's certificate showing the grade of the grain.* The person or persons calling for *the inspection* shall pay a reasonable fee fixed by the *department*.

(2) Grain that is shipped to points in *this* state where no inspection is maintained may be inspected on request of either the buyer or seller, and a certificate may be issued showing the grade of *the* grain. The charge for *the* service shall at least equal the entire cost of it, and shall be paid by the party calling for the *inspection*."

Section 26. Section 3-231, R.C.M. 1947, is amended to read as follows:

"3-231. **Sampling grain.** *Samples may be drawn from all grain shipped to terminal warehouses and from all grain inspected or weighed. The samples are the property of the state, subject to disposition by the department, under rules prescribed by the department.*"

Section 27. Section 3-232, R.C.M. 1947, is amended to read as follows:

"3-232. Examination of grain cars at destination — license of grain weighers. (1) *An inspector, sampler, or weigher, before opening the doors of a car containing grain, upon its arrival at any of the places designated by the department for inspection, shall first ascertain the condition of the car and determine whether any leakages have occurred while the car was in transit, shall determine whether the doors were properly secured and sealed at the point of shipment, and shall make a record of those facts in all cases, giving seal numbers.*

(2) *After examinations have been made, the state officials shall securely close and reseal doors opened by them, using the special seal of the department.*

(3) *A record of all original seals broken by those officials, the date when broken, and the number of the seals shall be made by them. An inspector, weigher, or sampler shall break the seal, weigh, add superintend the loading of all cars of grain subject to inspection. It is unlawful for any other person to break the seal or weigh the cars of grain.*

(4) *The department may require persons, firms, corporations, or warehousemen engaged in weighing grain in this state to obtain a license, and may adopt rules governing the application for and the issuance of the licenses. A fee may not be charged for a license. A person, firm, corporation, or warehouseman who weighs grain without first obtaining a license is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200)."*

Section 28. There is a new section to be numbered 3-232.1, which reads as follows:

3-232.1. Protein testing laboratory. (1) *The department shall maintain a protein testing laboratory.*

(2) *No other laboratory may certify to the grade or protein content of grain unless the laboratory is licensed by the department under rules adopted by the department.*

(3) *The department shall, by rule, determine the standard of analysis, controlling all other protein testing laboratories in this state.*

(4) *The department may, by rule, determine the form of protein certificates issued by it.*

Section 29. Section 3-233, R.C.M. 1947, is amended to read as follows:

"3-233. Fees — disposition. All fees and other charges fixed by the department, including fees for the inspection, grading, weighing, and protein-testing of grain, shall be kept as near the actual cost of the services as possible. All those fees and charges shall be paid to the department and deposited with the state treasurer. The state treasurer shall place all the fees and charges in the earmarked revenue fund. Fees deposited in the earmarked revenue fund may be used to pay claims for expense incurred in inspecting, grading, weighing, and protein-testing of grain, when the claims have been approved as provided by law."

Section 30. Section 3-512, R.C.M. 1947, is renumbered section 3-232.2, and is amended to read as follows:

"3-232.2. Protein test to be made of all wheat delivered to grain warehousemen — manner of making test — result — fee. (1) *Each public warehouseman shall take a sample from each load of wheat delivered to his warehouse and preserve the sample in a moisture-proof container with the owner's name on it. As hauling is completed by each owner the several samples taken from all the loads of that one owner shall be mixed thoroughly, except that high, medium, or low protein wheat from the same owner or wheat of different types, varieties, or grades shall be segregated and separate containers provided for each. A one-pint portion of the composite sample shall be submitted to the department and the balance shall be held in the owner's container. If either the warehouseman or owner is dissatisfied he may appeal to the department.*

(2) *In case of an appeal a one-pint portion of the remainder of the owner's sample shall again be submitted to the department with a statement of facts of the appeal and a final test in duplicate shall be made by the department. The department's certificate of the test is final and binding upon both parties in establishing the basis of the price paid by the warehouseman. A fee commensurate with the cost of each protein test shall be made, to be deducted and paid at the time of final settlement. Upon written request of the owner, no protein test need be made upon the owner's wheat."*

Section 31. Section 3-513, R.C.M. 1947, is renumbered section 3-232.3, and is amended to read as follows:

"3-232.3. Penalty for violation. A person violating section 3-232.2 is guilty of a misdemeanor and shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) for each offense."

Section 32. Section 3-702, R.C.M. 1947, is amended to read as follows:

"3-702. Definitions. *Unless the context requires otherwise, as used in sections 3-702 through 3-715:*

(1) *"Warehouseman" or "person" means a dealer, shipper (except grower), society, association, organization, corporation, or their agents or representatives.*

(2) *"Beans" means all varieties of the bean family (except green beans) whether grown or purchased for seed, feed, or human consumption.*

(3) *"Storage" or "warehousing" means any method by which beans are held for any party, other than direct ownership, by the party storing the beans."*

Section 33. Section 3-704, R.C.M. 1947, is amended to read as follows:

"3-704. License required of persons warehousing beans — fee — disposal of moneys — expiration date. *A person in the business of buying and selling at wholesale or warehousing and storing beans, or receiving or soliciting beans for purchase, sale, or storage, within or outside this state shall, before engaging in the business, obtain a license from the department of agriculture and pay a license fee to the department of fifteen dollars (\$15). The license fee shall be deposited with the state treasurer and credited to the general fund. Licenses shall be renewed annually and the prescribed fee paid annually. All licenses shall be issued for the fiscal year ending June 30 or a fraction of the fiscal year."*

Section 34. Section 3-705, R.C.M. 1947, is amended to read as follows:

"3-705. Form of application for license — qualifications — appeal on refusal. The *department* shall prescribe forms for application for licenses and shall require from the applicant the information it considers necessary. The applicant must satisfy the *department* as to his qualifications, warehouse and storage facilities, experience, and financial ability to carry on the business of buying, selling, warehousing and storing. Upon furnishing the evidence, the *department* shall grant or refuse a license. If a license is refused by the *department*, appeal may be made in accordance with sections 3-3304 and 3-3308."

Section 35. Section 3-706, R.C.M. 1947, is amended to read as follows:

"3-706. Bond of applicant — conditions — fire insurance. A person applying for a license to engage in the business of buying, selling, warehousing, or storing beans in accordance with this act shall, file with the *department* a surety bond of five thousand dollars (\$5,000). The bond shall be executed by a responsible surety company licensed to do business in this state and shall be approved by the *department*. The bond shall be conditioned upon the faithful performance of the applicant's obligations as a bean dealer or warehouseman under the laws of this state and of additional obligations assumed by him under contract with the respective depositors of the beans with him. The *department* may require additional bond under penalty of revoking the license. The bond shall be in a form and shall contain additional conditions as the *department* may prescribe to carry out the purposes of this act, and the bond may, in the discretion of the *department*, include any required fire insurance."

Section 36. Section 3-708, R.C.M. 1947, is amended to read as follows:

"3-708. Fee for inspecting warehouse. The *department* shall charge a reasonable fee, not in excess of ten dollars (\$10) a year, for every examination or inspection of a warehouse under this act. The fee shall be paid to the *department* and deposited as provided in section 3-704."

Section 37. Section 3-709, R.C.M. 1947, is amended to read as follows:

"3-709. Records of bean dealer — inspection — receipt. (1) A dealer in beans shall keep a complete record of all beans handled by him in a form described in the *department*.

(2) The record shall be open to the confidential inspection of the *department* at all times. Every warehouseman shall issue a receipt for all beans received for storage on a form approved by the *department*."

Section 38. Section 3-710, R.C.M. 1947, is amended to read as follows:

"3-710. Rules to be adopted by department. The *department* shall adopt rules it considers necessary for the safe conduct of the business referred to in this act, including a scale of storage charges and storage receipts. The *department* may require reports, from any warehouseman or person receiving stored beans, on forms prepared by the *department*."

Section 39. Section 3-712, R.C.M. 1947, is amended to read as follows:

"3-712. Storage constitutes bailment — duty to keep beans in storage. The storage of beans under this act constitutes a bailment and

upon the return of the warehouse receipt properly endorsed, and upon the payment or tender of all advances and legal charges, the holder of the warehouse receipt is entitled to, and the warehouseman shall deliver, the identical grade and amount of beans placed in storage. A dealer, under this act, shall maintain at all times in original storage beans equal in amount and grade to all storage certificates issued, unless authorized in writing by holders of receipts or by the *department*, to move to other storage. Failure to maintain the proper amount of beans is a conversion."

Section 40. Section 3-713, R.C.M. 1947, is amended to read as follows:

"3-713. Records of warehousemen — reports. A person operating under this act shall keep in a place of safety complete records of all beans stored by him, all beans withdrawn from storage, all warehouse receipts issued by him, and all the receipts returned to and canceled by him, and shall report to the *department* as required by the rules of the *department*."

Section 41. Section 3-714, R.C.M. 1947, is amended to read as follows:

"3-714. Enforcement — investigations — hearings — orders of department — appeals. (1) To enforce this act, the *department* may, upon its own motion, or shall upon verified complaint against any dealer or any person assuming or attempting to act as a dealer make all necessary investigations. The *department* shall at all times have free access to all buildings, yards, warehouses, storage and transportation or other facilities or places in which beans are kept, stored, handled or transported. If the *department*, upon investigation, believes that a dealer is not acting in accordance with this act, or if a verified complaint is filed against a dealer, the *department* shall personally serve on the dealer, or shall mail by registered mail, a complaint, or a copy of the verified complaint. If the dealer fails to make formal adjustment or settlement of the charges to the satisfaction of the *department*, the *department* shall hold a formal hearing. Notice of the hearing shall be given at least twenty (20) days before the hearing. The hearing shall be held in the city or town in which the transaction complained of is alleged to have occurred.

(2) Copies of records, inspection certificates, certified reports, and all papers on file with the *department* are prima facie evidence of the matters contained in them.

(3) After the hearing the *department* shall dismiss the charges, suspend the license of the dealer for a specified time, revoke the license, or make any other appropriate order considered just and proper. An order shall specify its effective date and any order other than one suspending or revoking a license automatically suspends the license until the order is complied with. An appeal may be made from the decision of the *department* under sections 3-3304 and 3-3308."

Section 42. Section 3-805, R.C.M. 1947, is amended to read as follows:

"3-805. Inspection by grain and seed laboratory — reports — enforcement. (1) The grain and seed laboratory of the agricultural experiment station shall inspect, analyze, and test seeds sold, offered, or exposed for sale in this state at a time and place and to an extent as the director of the agricultural experiment station and the *department* of

agriculture determine. The laboratory shall report to the department all violations as they appear. It shall also annually before September 1 make a report to the department of all tests made and the results, which may be published by the department. The laboratory and the department shall have free access at all reasonable hours to all premises or structures to make examination of any seeds or any other premises of a warehouse, elevator, or railway company. Upon tendering payment at the current value, the department may take any sample of seeds.

(2) The department shall administer and enforce this act. For that purpose, the department may adopt rules. The department may issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural seed which the department finds in violation of this act. The order shall prohibit further sale of the seed until the department has evidence that the law has been complied with. The seed may not be confiscated or destroyed. Upon proper correction, by reprocessing, labeling, or otherwise, and when, in the judgment of the department, the requirements of this act have been met, the stop sale order shall be lifted and the seed may be sold. The department shall adopt all necessary rules relating to the agricultural experiment station's duties under this act."

Section 43. Section 3-809, R.C.M. 1947, is amended to read as follows:

"3-809. **Certified seeds — advertisement — definition.** A person, firm, association, or corporation who issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, or written or printed representation or description pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale, in which the words "Montana state certified," "state certified," "Montana certified," or similar words or phrases are used or employed, is subject to sections 3-809 through 3-814."

Section 44. Section 3-814, R.C.M. 1947, is amended to read as follows:

"3-814. **Unlawful use of certification — penalty.** A person, firm, association, or corporation may not issue, make, use, or circulate any document purporting to be or represented as a seed or plant part certification certificate, represent seeds or plant parts as certified, or use the terms "Montana state certified," "state certified," "Montana certified," or similar words or phrases, without the authority and approval of the university. A person, firm, association, or corporation who violates sections 3-809 through 3-814 is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense."

Section 45. Section 3-820, R.C.M. 1947, is renumbered section 3-802.4, and is amended to read as follows:

"3-802.4. **Prohibitions.** A person, firm, corporation, copartnership or association may not sell or transport for use in planting in this state any agricultural, vegetable or flower seed that:

- (1) Contains prohibited noxious weed seeds.
- (2) Contains restricted noxious weed seeds in excess of the maximum numbers per pound as follows:

	Species per pound	Number allowed per pound
Dodder	(Cuscuta spp.)	18
Blue lettuce	(Lactuca pulchella)	27
St. Johnswort	(Hypericum perforatum)	27
Oxeye daisy	(Chrysanthemum leucanthemum)	90
Spotted knapweed	(Centaurea maculosa)	18
Hoary alyssum	(Berteroa incana)	9
Wild oats	(Avena fatua)	45
Buckhorn plantain	(Plantago lanceolata)	90
Chickweed	(Stellaria spp.)	9
Curly dock	(Rumex crispus)	45

(3) Contains in excess of two per cent (2%) or more of weed seed.

(4) Is offered or exposed for sale more than nine (9) calendar months from the last day of the month in which the germination test was completed. This nine (9) month limitation does not apply when seed is packaged in hermetically sealed containers within twelve (12) months after harvest. The container must be conspicuously labeled in not less than eight (8) point type to indicate:

(a) That the container is hermetically sealed.

(b) That the seed has been preconditioned as to moisture content.

(c) That the germination test is valid for a period not to exceed eighteen (18) months from the date of the germination test for seeds offered for sale on a wholesale basis, and for a period not to exceed thirty-six (36) months for seeds offered for sale at retail.

(d) That the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1963, with subsequent revisions.

(5) Is represented in any manner to be for lawn seeding purposes, unless it contains at least fifty per cent (50%) pure seed of perennial fine-textured species which shall be specified by rules under this act. However, grass mixtures which do not contain fifty per cent (50%) pure seed of perennial fine-textured grasses may be sold. When these grass mixtures are contained in packages of twenty-five (25) pounds or less, they shall carry the statements: "Not recommended for a fine-textured perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable." A definition of fine-textured varieties to be adopted in the rules is as follows:

(a) Bluegrasses—all varieties except Canada Bluegrass (*Poa compressa*), Annual Bluegrass (*Poa annua*) and Rough Bluegrass (*Poa trivialis*).

(b) Chewings Red Fescue and all improved varieties.

(c) Creeping Red Fescue and all improved varieties.

(d) Bentgrass—all varieties.

(e) Fine-textured Ryegrasses.

(6) The labeling, advertising or other representation subject to this act represents the seed to be certified seed of any class thereof unless:

(a) it has been determined by a seed certifying agency that such seed conformed to standards of purity and identity as to kind, species (and subspecies, if appropriate) or variety; and

(b) that the seed bears an official label issued for such seed by a seed certifying agency certifying that seed is of a specified class and a specified kind, species (and subspecies, if appropriate) or variety.

(7) Is labeled with a variety name for which a U.S. certificate of plant variety protection has been issued or applied for under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321 et. seq.), without the authority of the owner of the variety; or is labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which the certificate or application for "protection" specifies sale only as a class of certified seed; provided, that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with approval of, the owner of the variety."

Section 46. Section 3-821, R.C.M. 1947, is renumbered section 3-802.5, and is amended to read as follows:

"3-802.5. Department may revise classifications — hearing — order. The department may, with the written approval of the director of the agricultural experiment station recorded before or within ten (10) days after a public hearing, revise the groups and classifications of noxious weed seeds provided in this act to prevent or diminish the distribution and occurrence of noxious weed seeds in this state. Notice of the hearing shall be published by the department at least thirty (30) days before the day set for the hearing, in three (3) newspapers of general circulation in the state and shall be mailed to all associations of seed dealers in the state who are organized on a state-wide basis. A revision or modification made as a result of the hearing shall be adopted by a written order of the department, shall be countersigned "approved" by the director of the agricultural experiment station, and shall plainly state the revisions or modifications and any qualifications, exceptions, or conditions pertaining to the revisions or modifications."

Section 47. Section 3-1002, R.C.M. 1947, is amended to read as follows:

"3-1002. Duty of department of agriculture to destroy — proceedings. The department of agriculture shall destroy harmful barberry plants found growing anywhere in the state. If the owner of the land on which the plants are found fails to destroy the plants within ten (10) days after receiving a written notice to that effect from the department, the department shall destroy the plants. The department shall then make out a statement in duplicate of the actual cost and expense incurred in destroying the plants. One copy of the statement shall be transmitted to the landowner, and the other shall be filed with the county treasurer where the land is situated. The treasurer shall place the amount indicated in the statement on the tax duplicate against the land. That amount shall be collected in the same manner and at the same time as taxes are collected.

When collected, the amount shall be paid by the treasurer to the department, which shall send it to the state treasurer, to be credited to the general fund."

Section 48. Section 3-1004, R.C.M. 1947, is amended to read as follows:

"3-1004. Act applicable to mahonia. The department may apply this act to species of mahonia, when in its judgment the necessity arises."

Section 49. Section 3-1103, R.C.M. 1947, is amended to read as follows:

"3-1103. Destruction of fruit pests — use of crates. (1) The department of agriculture may adopt rules to prevent the spread of contagious disease among fruit and fruit trees, to prevent, treat, and destroy fruit pests and diseases of fruit and fruit trees, and to disinfect grafts, scions, and orchard debris, empty fruit boxes, or packages, or other suspected material or transportable articles dangerous to orchards, fruit, and fruit trees. The rules shall be circulated in printed form by the department among fruit growers and fruit dealers of the state, shall be published at least ten (10) days in two (2) newspapers of general circulation in the state, and shall be posted in three (3) conspicuous places in each county in the state, one of which shall be at the county courthouse. No person may use a second time any crate, box, barrel, package, or wrapping which previously contained nursery stock, however, at the written request of a nurseryman, the department may permit boxes or packages which previously contained nursery stock to be thoroughly fumigated in the presence of an inspector, at the expense of the nurseryman. The department shall give a receipt and mark the box or package. Otherwise, the box or package must be destroyed in its entirety, and possession of the crate, box, barrel, package, or wrapping by a person or dealer, other than the consignee, is prima facie evidence of a violation of this act.

(2) The department may seize and destroy by burning, without breaking, an infected or unlawfully used crate, box, barrel, package, or wrapping wherever found, and prosecute the violator."

Section 50. Section 3-1104, R.C.M. 1947, is amended to read as follows:

"3-1104. Inspectors — appointment and duties. The department shall appoint inspectors of fruit pests who shall be selected with reference to their knowledge and practical experience in horticulture. Inspectors shall visit the nurseries, orchards, stores, packing houses, warehouses, and other places where horticultural products and fruits are kept, and shall see that the rules of the department and the laws of the state pertaining to the disinfection of fruits, trees, plants, grafts, orchard debris, and empty fruit boxes and other material are complied with. Inspectors shall have access, at all times, to all orchards or places where horticultural products or supplies are kept or handled. They shall enforce the rules of the department and may order the destruction and disinfection of infected trees, plants, fruits, or horticultural products or supplies."

Section 51. Section 3-1106, R.C.M. 1947, is amended to read as follows:

"3-1106. **Investigation of source, control, and destruction of insect pests.** The department may investigate the source, control, and destruction of insect pests, fungus and bacterial diseases of orchards, trees, shrubs, plants, or nursery stock in this state."

Section 52. Section 3-1201, R.C.M. 1947, is amended to read as follows:

"3-1201. **Sales of nursery stock — inspection — fee.** (1) A person who sells or delivers any nursery stock not previously inspected under this chapter shall notify the department of agriculture of the sale or delivery. The department, after receiving the notice, shall inspect the nursery stock as soon as practicable. If the nursery stock is free from diseases and pests, the department shall so certify and shall attach a certificate of inspection to each lot or bill of nursery stock inspected.

(2) The department may designate certain places as quarantine stations where all nursery stock brought into the state shall be inspected and disinfected.

(3) If any nursery stock is diseased or infested with any of the pests mentioned in section 3-1301, the department shall order its disinfection or destruction together with all boxes, wrapping, or packing. If the department has ordered the destruction of any nursery stock, it shall notify the owner who may appeal to the director of agriculture before the destruction. The director's decision concerning the disposition of the nursery stock is final.

(4) The department shall fix by rule, after a hearing, the charges for disinfecting, fumigating, and inspecting nursery stock.

(5) Notice of the hearing on the proposed charges shall be published once in three (3) newspapers of general circulation in this state. The charge for inspecting each carload of nursery stock is ten dollars (\$10) or a proportionate sum fixed by the department for less than carload lots.

(6) The department shall collect all fees required by this section and may not give a certificate of inspection until the fees are paid."

Section 53. There is a new section to be numbered 3-1201.1, R.C.M. 1947, which reads as follows:

3-1201.1. **Definitions.** Unless the context requires otherwise, in this chapter:

(1) "Person" means a person, firm, or corporation.

(2) "Seasonal nurseryman" means a person engaged in the business of selling, dealing in, or importing into the state for sale or distribution, any nursery stock which is for sale only during certain growing seasons and whose place of business is open only during certain growing seasons and not continuously throughout the year.

(3) "Nursery stock" means botanically classified hardy perennial or biennial trees; shrubs; vines; plants, either domesticated or wild; cuttings; grafts; scions; buds; bulbs; rhizomes or roots of them; and other plants and plant parts for, or capable of, propagation. The term does not include vegetable, field, or flower seed, or corns and tubers.

Section 54. Section 3-1202, R.C.M. 1947, is amended to read as follows:

"3-1202. **Department rules and orders.** Every person in charge or control of nursery, orchard, storeroom, packing house, or other place where horticultural products or supplies are handled or kept shall comply with the rules of the department and shall disinfect or destroy diseased or infected nursery stock or other horticultural supplies or products when ordered so to do by the department."

Section 55. Section 3-1203, R.C.M. 1947, is amended to read as follows:

"3-1203. **Duty to notify department of infection.** The owner or manager of an orchard, nursery, storeroom, packing house, or other place where horticultural products or supplies are kept or handled, which becomes diseased or infested with any injurious insect or pest, immediately upon discovery of the existence of the disease or pest, shall notify the department. The owner or manager, at his expense, shall comply with the instructions of the department for the eradication of the disease or pest."

Section 56. Section 3-1204, R.C.M. 1947, is amended to read as follows:

"3-1204. **Removal of infected trees — assessment of costs.** If a person owning any orchard or nursery stock infected or infested with any injurious insect pest or disease and which becomes a menace to the agricultural or fruit industry, or a menace to ornamental trees, shrubs, plants, or vines fails to comply with the instructions of the department for the destruction or control of the injurious insect pest or disease, or the destruction of the infested or infected orchard or nursery stock within the time specified by the department, the department may condemn, remove, or destroy the orchard or nursery stock or treat it with a proper remedy. If an owner fails to pay the cost of the removal, treatment, or destruction within thirty (30) days after notice has been mailed to the owner at his last known post-office address, the cost shall become a lien on the land of the owner and shall be added by the county treasurer to the taxes upon the property and collected as other taxes."

Section 57. Section 3-1205, R.C.M. 1947, is amended to read as follows:

"3-1205. **Prohibition against delivery of uninspected nursery stock.** A person may not receive or deliver any nursery stock unless a certificate issued by the department is attached to the nursery stock."

Section 58. Section 3-1206, R.C.M. 1947, is amended to read as follows:

"3-1206. **Notice to department of shipment of nursery stock.** A person licensed to do business under this chapter shall notify the department of his intention to ship nursery stock not previously inspected in accordance with this chapter to any point in this state. The notice shall contain the name and address of both the consignor and consignee, the list of the goods to be shipped, the freight or express office at which the

goods are to be delivered, and the name or title of the transportation company from whom the consignee is to receive the goods. *The notice shall be mailed at least five (5) days before the day of shipment.*"

Section 59. Section 3-1207, R.C.M. 1947, is amended to read as follows:

"3-1207. **Prohibition against receiving uninspected nursery stock.** *A person who receives and accepts any nursery stock that has not been inspected by the department shall, before using or disposing of the nursery stock, first notify the department and give it an opportunity to examine and, if necessary, fumigate the nursery stock.*"

Section 60. Section 3-1209, R.C.M. 1947, is amended to read as follows:

"3-1209. **Right to hold produce for inspection.** No person is liable to any other person for any damage to any nursery stock *caused by holding it to await the certificate of the department.*"

Section 61. Section 3-1210, R.C.M. 1947, is amended to read as follows:

"3-1210. **Inspection of Montana nursery stock — certificate.** (1) *Before it is packed for delivery, all nursery stock grown or growing in this state and used for filling orders shall be inspected by the department. The nursery stock shall be disinfected by fumigating or other method, when considered necessary by the department. If the nursery stock is clean and free from insects and fungi pests, the department shall issue a certificate to the nurseryman. The certificate shall entitle the nurseryman to use that stock for filling orders for current delivery. The certificate shall be furnished at a price not exceeding forty cents (\$.40) per hundred.*

(2) Nurseries shall give the department five (5) days' notice of the time when the stock will be ready for inspection."

Section 62. Section 3-1211, R.C.M. 1947, is renumbered section 3-1218, and is amended to read as follows:

"3-1218. **Penalty for violation of chapter.** A person violating this chapter is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300)."

Section 63. Section 3-1212, R.C.M. 1947, is amended to read as follows:

"3-1212. **License required of nurserymen — application and payment of fees.** (1) *A person, before engaging in the business of selling, dealing in, or importing nursery stock into this state for sale or distribution; or acting as agent, salesman, or solicitor for any nurseryman or dealer in nursery stock; or soliciting orders for the purchase of nursery stock must obtain a license from the department. A person may not falsely represent that he is an agent, salesman, solicitor, or representative of any nurseryman or dealer in nursery stock.*

(2) *The department shall provide application forms for prospective licensees. Applications for licenses may be made at any time before engag-*

ing in business, except seasonal nurserymen must make application at least thirty (30) days in advance of doing business in this state.

(3) *Licenses shall be in the name of the person licensed, and shall indicate the purpose for which issued and the name and location of the nursery or place of business of the nurseryman or dealer licensed or represented by an agent, salesman, or solicitor. Licenses, except seasonal nurserymen's licenses, shall bear the date of issue and expire July 1 next following the date of issue. Seasonal nurserymen's licenses shall bear the date of issue and expire on the date provided on the license by the department.*

(4) *The license fee is fifteen dollars (\$15) a year for a general nursery, dealing in all kinds of nursery products; ten dollars (\$10) a year for a nursery dealing in small fruits, ornamental shrubs, bulbs, and perennials; five dollars (\$5) a year for a nursery dealing in bulbs and perennials only; and fifteen dollars (\$15) a year for seasonal nurserymen. Agents, salesmen, and solicitors for licensed nurseries shall be granted salesmen's licenses, free of charge, upon the request of the licensee."*

Section 64. Section 3-1213, R.C.M. 1947, is amended to read as follows:

"3-1213. **Renewal of license.** A licensed nurseryman or dealer in nursery stock who has complied with this chapter is entitled, upon the expiration of his license, to have the license renewed. *The license shall be renewed upon payment of the proper fee.*"

Section 65. Section 3-1214, R.C.M. 1947, is amended to read as follows:

"3-1214. **Grounds for refusal or revocation of license.** *The department may refuse to issue a license or it may revoke a license under this chapter when:*

(1) *The person has been adjudged bankrupt, insolvent, or guilty of fraud or deceit by a court of competent jurisdiction; or*

(2) *A verified complaint is made to the department that a licensee has failed to comply with this chapter or the horticulture laws."*

Section 66. Section 3-1216, R.C.M. 1947, is amended to read as follows:

"3-1216. **Duplicate copies of orders for nursery stock required.**

(1) *A nurseryman or dealer in nursery stock, and a salesman, solicitor, and agent shall give to a person ordering nursery stock a duplicate copy of the order which shall show:*

(a) *The name and location of the nursery where the stock was grown.*

(b) *The name of the nurseryman from whom ordered, and the name of the solicitor, salesman, or agent taking the order.*

(c) *The date of the order and when delivery is to be made.*

(d) *The number, name, age, and price of the variety of tree or plant ordered.*

(2) Upon shipment into this state from any point *outside* this state of any nursery stock, by a person not licensed to do business in this state, the person receiving the nursery stock *shall* have it inspected by the department and *shall* pay an inspector's fee of ten per cent (10%) of the invoice price of the shipment. The minimum fee for the inspection shall be fifty cents (50¢) and the actual and necessary traveling expenses of the inspector. No inspection fees may be collected in excess of the regular inspection fees, where the stock is shipped to a person *licensed* under this chapter."

Section 67. Section 3-1301, R.C.M. 1947, is amended to read as follows:

"3-1301. **Importation and sale of infected fruits and vegetables prohibited.** A person may not import into this state, sell, barter, or otherwise dispose of, offer for sale, or possess for sale or barter, any fruit or vegetable which is or has been infested with San Jose scale, or the larvae of the codling moth, or other insect pest or disease dangerous to agriculture. The fact that any fruit or vegetable bears the mark of any such insect, or is worm eaten by the larvae of the codling moth, or shows the effect of disease, is conclusive evidence that the fruit or vegetable is infected. Infected fruit or vegetables may be condemned and confiscated by the department of agriculture. Nothing in this section prevents the growers of the infected fruit or vegetable from manufacturing it into a by-product, or selling and shipping it to a by-product factory, after obtaining a written permit from the department."

Section 68. Section 3-1302, R.C.M. 1947, is amended to read as follows:

"3-1302. **Quarantine of orchards.** (1) The department may quarantine an orchard or place where fruits are grown or kept, that is infested with an injurious disease or insect pest. The department may adopt rules governing quarantines, and regulating or restricting the use of quarantined fruits upon the premises, or the shipment or disposition of them as necessary to prevent the spreading of disease or diseases or insect pests.

(2) A person may not ship or dispose of diseased or infested fruit or fruit products in violation of the order of the department."

Section 69. Section 3-1303, R.C.M. 1947, is amended to read as follows:

"3-1303. **Expenses of eradicating orchard diseases — collection as tax.** When, under the direction or rules of the department, any money is spent by it to eradicate any disease or insect pest from an orchard or other place where fruits are grown or kept, the department shall notify the owner of the orchard or premises in writing of the amount spent plus an additional charge of twenty-five per cent (25%) of the amount spent. The notice shall be mailed to the last known address of the owner. If the owner fails to pay the amount spent by the department plus the additional charge of twenty-five per cent (25%), within thirty (30) days of the time the notice is sent, the department shall file a verified statement with the county treasurer where the money was spent. The statement shall set forth the amount spent plus the additional charge of twenty-five per cent (25%),

together with the correct description of the property on which the money was spent as it appears on the assessment roll of the county. The county treasurer shall add the amount contained in the statement to the taxes upon the property and shall collect them in the manner provided for collection of state and county taxes."

Section 70. Section 3-1305, R.C.M. 1947, is renumbered section 3-3401, and is amended to read as follows:

"3-3401. **Inspection of apples packed for sale — procedure.** (1) The department of agriculture shall inspect all apples packed for sale or shipment under this chapter.

(2) The department may:

(a) Certify to the grade and pack of apples packed for sale or shipped under this chapter and charge the owner, packer, or shipper a fee fixed by the department for these services.

(b) Adopt rules regarding inspection and certification of apples under this chapter."

Section 71. Section 3-1306, R.C.M. 1947, is amended to read as follows:

"3-1306. **Quarantine against insect pests and plant diseases in other states.** If the governor believes that any pest, gypsy moth, brown-tail moth, Mediterranean fruit-fly, potato wart, potato canker, black scab, potato ellworm, pea-weevil, alfalfa weevil, alfalfa blight, flax canker, or flax-wilt, or other fruit or plant disease or insect pest, dangerous or inimical to the horticultural or the agricultural industry, exists in certain localities in another state, territory, or country, or that conditions exist that render domestic horticultural stock or agricultural crops or plants likely to become diseased, he must by proclamation designate the localities. The governor shall prohibit the importation from those localities of any tubers, plants, nursery stock, fruit, or seeds or agricultural crops, plants, or seeds likely to introduce or spread infection, contagion, or insect pests into the state, except under restrictions he, after consulting with the department and the cooperative extension service, considers proper."

Section 72. Section 3-1308, R.C.M. 1947, is amended to read as follows:

"3-1308. **Prohibition against receiving products from infected districts.** After publication of the governor's proclamation, a person may not knowingly receive any tubers, plants, nursery stock, fruit, seeds or agricultural crops, plants or weeds from a prohibited district, and a person may not transport, convey, sell, or use them in this state. A person who violates this section is subject to the penalty provided in section 3-1309 and is liable for the damages caused to a person by the importation or transportation."

Section 73. There is a new section to be numbered 3-1309, R.C.M. 1947, which reads as follows:

3-1309. **Penalty.** A person who violates this chapter is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).

Section 74. Section 3-1402, R.C.M. 1947, is amended to read as follows:

"3-1402. **Definitions.** *Unless the context requires otherwise in this act:*

(1) "Montana farm products" means all products of the farm grown commercially in Montana or elsewhere and intended for table use such as potatoes, cherries, and dry beans.

(2) "Other farm products" means all farm products which are not normally grown commercially in Montana such as grapefruit and oranges.

(3) "Container" or "package" means cloth or fibre sacks, barrel, box, crate, carton, hamper, or baskets, customarily used for the shipment of Montana farm products and other farm products.

(4) "Person" as used herein shall mean any grower, dealer, shipper, society, association, organization, corporation or their agents or representatives.

(5) *The terms defined in subsections (1) and (2) do not include livestock and its by-products, poultry and its products, apiary products, dairy products, grain, or apples."*

Section 75. Section 3-1403, R.C.M. 1947, is amended to read as follows:

"3-1403. **Department to establish standard grades — notice required.** (1) The department of agriculture shall establish United States standard grades on potatoes, dry beans, cherries and shall, as soon as any Montana farm product or other farm product reaches a volume rendering it of market importance, establish United States grades on that product.

(2) *The grades become effective thirty (30) days after publication in the Montana administrative register. The department shall publish notice of the establishment of the standards two (2) times in at least three (3) papers of general circulation within the state."*

Section 76. Section 3-1404, R.C.M. 1947, is amended to read as follows:

"3-1404. **Grading and branding of products required — labeling of culls.** A person may not pack for sale, expose for sale, or sell, transport, deliver, or consign, or possess for sale, transport, delivery, or consignment in interstate or intrastate commerce:

(1) Montana farm products and other farm products prepared for market which are not graded and branded to meet the requirement of the grade declared. The grade declared shall conform to the provisions of this act.

(2) Other farm products, which includes products arriving or found in Montana in containers not graded and branded, must meet the requirements of United States No. 1 grade or better. Those products which do not grade United States No. 1 or better must be labeled or tagged with proper grade according to Montana inspection.

(3) Montana farm products and other farm products not conforming

to established grades may be sold if labeled, tagged, or branded in the same manner as graded products, except that in place of specifying the grade, the word "culls" or "unclassified" shall be used.

(4) All products branded "unclassified" must contain at least fifty per cent (50%) of products which would grade United States No. 2, or better.

(5) Montana farm products and other farm products for seed purposes may be sold when graded under rules approved by the department of agriculture and plainly labeled, tagged, or branded "For Seed Purposes."

(6) Provided further that United States commercial grade is a standard grade in this state.

(7) Oranges labeled "choice" shall meet the requirements of the United States No. 2 grade or better for oranges."

Section 77. Section 3-1407, R.C.M. 1947, is amended to read as follows:

"3-1407. **Entry and inspection by department.** The department may enter upon premises where Montana farm products and other farm products are graded, packed, or stored, to inspect them as to grade, pack, and condition."

Section 78. Section 3-1408, R.C.M. 1947, is amended to read as follows:

"3-1408. **Rules for enforcement.** The department may adopt rules necessary for the enforcement of this act."

Section 79. Section 3-1410, R.C.M. 1947, is amended to read as follows:

"3-1410. **Violation of provisions — penalty.** A person who violates this act by not grading Montana farm products and other farm products, or by not tagging or branding containers, or by removing or altering any tag or brands placed upon or attached to any containers, unless ordered to do so by the department, is guilty of a misdemeanor. He shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or imprisoned in the county jail not less than thirty (30) days nor more than three (3) months, or both fined and imprisoned."

Section 80. Section 3-1510, R.C.M. 1947, is renumbered section 90-701, and is amended to read as follows:

"90-701. **Intrastate transactions with paints, etc. — label — contents of label.** A person, firm, or corporation, who manufactures for sale, sells, offers for sale, or ships in intrastate transactions within the state, any paint, mixed paint, paste paint, or compound intended for use as paint, or any varnish, decorative protective coatings, or additives for wood, metal, concrete, or roof coatings, but excluding artists' colors, waxes, and polishes, shall label it in a clear and distinct manner. The label shall recite a full analysis of the content with a specification of pigment and vehicle, including the analysis by percentage of the pigment content and the analysis by percentage of the vehicle content. The label shall further recite the name and address of the manufacturer or distributor of the product.

The analysis and composition *may be inspected* by the chief chemist of a laboratory designated by the department of *business regulation*."

Section 81. Section 3-1511, R.C.M. 1947, is renumbered section 90-706, and is amended to read as follows:

"90-706. **Penalty for violations.** A person, firm, or corporation who *violates this chapter* shall be *prosecuted and fined* not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) and all costs, including cost of analysis to the amount of twenty-five dollars (\$25) or shall be imprisoned in the county jail for not more than sixty (60) days."

Section 82. Section 3-1512, R.C.M. 1947, is renumbered section 90-705, and is amended to read as follows:

"90-705. **Possession as prima facie evidence.** The possession, either constructive or actual, by a person, firm, or corporation dealing in the articles or substances described in section 90-701 and not properly labeled as provided by section 90-701, is prima facie evidence that *those articles or substances are kept for sale in violation of this chapter*."

Section 83. Section 3-1513, R.C.M. 1947, is renumbered section 90-702, and is amended to read as follows:

"90-702. **Enforcement of chapter.** The department of *business regulation* shall *enforce this chapter*. The department shall have access to all places of business, factories, stores, and buildings used for the manufacture or sale of paints or other products described in section 90-701. The department may purchase and open any package, can, jar, tub, or other receptacle containing any of the articles described in section 90-701 and found during an inspection."

Section 84. Section 3-1514, R.C.M. 1947, is renumbered section 90-703, and is amended to read as follows:

"90-703. **Designation of laboratory for analysis — report of analysis.** The department of *business regulation* shall designate the laboratory where analysis of the products described in section 90-701 shall be made. When products are found to be in violation of this chapter, the chief chemist of the laboratory designated by the department shall report the facts to the department. A certificate signed by the chief chemist of the laboratory relating to the analysis of any of the products mentioned in section 90-701 is presumptive evidence of the facts stated in it."

Section 85. Section 3-1515, R.C.M. 1947, is renumbered section 90-704, and is amended to read as follows:

"90-704. **County attorney — duties regarding chapter.** The county attorney of the county where the violation of this chapter occurred, shall prosecute every person, firm, or corporation violating this chapter when the evidence of the violation has been presented by the chief chemist of the laboratory making the analysis."

Section 86. Section 3-1714, R.C.M. 1947, is amended to read as follows:

"3-1714. **Definitions.** Unless the context requires otherwise, in this chapter:

(1) "**Fertilizer materials**" means any substance containing nitrogen, phosphorus, potassium, or any recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(2) "**Mixed fertilizers**" means any physical combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

(3) "**Commercial fertilizer**" includes mixed fertilizer and fertilizer materials or either of them.

(4) "**Bulk fertilizer**" means commercial fertilizer distributed in nonpackaged form.

(5) "**Brand**" means a term, design, or trade-mark used in connection with one or several grades of commercial fertilizer.

(6) "**Grade**" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis.

(7) "**Official sample**" means any sample of commercial fertilizer taken by the department of agriculture.

(8) "**Ton**" means a net weight of two thousand (2,000) pounds avoirdupois.

(9) "**Per cent**" or "**percentage**" means the percentage by weight.

(10) "**Person**" means an individual, partnership, association, firm, or corporation.

(11) "**Distribute**" means to offer for sale, sell, barter, or otherwise supply commercial fertilizers.

(12) "**Distributor**" means any person who distributes.

(13) "**Registrant**" means the person who registers commercial fertilizer.

(14) "**Manipulated manures**" means substances composed primarily of excreta, plant remains, or mixtures of such substances which have been processed in any manner, including the addition of plant nutrients, drying, grinding and other means.

(15) "**Specialty fertilizer**" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries, and includes commercial fertilizers used for research or experimental purposes.

(16) "**Soil amendment**" means any material not included under commercial fertilizer, or unmanipulated animal and vegetable manures, lime, limestone, marl, unground bone, or those products subject to the Federal Insecticide, Fungicide and Rodenticide Act as amended, which is added to soil or to plants for purposes of influencing the growth, yield, or quality of the crop or soil flora or fauna or other soil characteristics."

Section 87. There is a new section to be numbered 3-1714.1, R.C.M. 1947, which reads as follows:

3-1714.1. **Guaranteed analysis.** (1) Until the department prescribes the alternative form under subsection (2) of this section, "guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

- (a) Total nitrogen (N).....percent
- Available phosphoric acid (P2O5).....percent
- Soluble potash (K2O).....percent

(b) For unacidulated mineral phosphatic materials and basic slag, guaranteed analysis includes both total and available phosphoric acid and the degree of fineness.

(c) For bone, tankage, and other organic phosphatic materials, guaranteed analysis includes total phosphoric acid.

(d) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rules adopted by the department. The guarantees for other nutrients shall be expressed in the form of the element. The sources of other nutrients including, but not limited to, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department. When any plant nutrients or other substances or compounds are guaranteed, they are subject to inspection and analysis in accord with the methods and regulations prescribed by section 3-1718.

(e) Except when prohibited by regulation, potential basicity or acidity expressed in terms of calcium equivalent in multiples of one hundred (100) pounds per ton may be shown.

(2) If the department finds, after public hearing, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, it may require by department rule that the guaranteed analysis be in the following form:

- Total nitrogen (N).....percent
- Available phosphorus (P).....percent
- Soluble potassium (K).....percent

(3) The effective date of the rule may not be less than six (6) months following the adoption of the rule. For a period of two (2) years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. However, after the effective date of a rule requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium is the grade for those elements.

Section 88. Section 3-1715, R.C.M. 1947, is amended to read as follows:

"3-1715. **Registration and licenses.** (a) Each brand and grade of commercial fertilizer and each *soil amendment* shall be registered before being distributed in this state. The application for registration shall be submitted to the *department* on a form furnished by the *department* and shall be accompanied by a fee of thirty-five dollars (\$35) per brand and ten dollars (\$10) per grade for each fertilizer and for each soil amendment guaranteeing plant nutrients and claiming value as a fertilizer. The registration fee is five dollars (\$5) for each soil amendment making no guarantees for plant nutrients or claims for fertilizer value. Upon approval by the *department*, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include:

- (1) The brand and grade;
- (2) The guaranteed analysis;
- (3) The sources from which the nitrogen, phosphorus and potassium are derived;
- (4) The *department* may require a manufacturer of commercial fertilizer or soil amendment to furnish additional information if the *application* does not adequately describe the fertility value claimed and the composition of the product;
- (5) The name and address of the registrant.

(b) A distributor may not be required to register any brand or grade of commercial fertilizer which is already registered under this *section* by another person.

(c) The plant nutrient content of every brand and grade of commercial fertilizer must remain uniform for the period of registration.

(d) A distributor who blends or mixes fertilizer materials to a customer's order without a guaranteed analysis of the mixture in accordance with *subsection (1)* of this section must first obtain a license from the *department*. The application for the license shall be submitted in duplicate to the *department* on forms furnished by the *department* and shall be accompanied by the fee prescribed in this *section*. If the distributor blends or mixes fertilizer materials at more than one fixed location, or by more than one mobile mechanical unit, a license is required for each location and for each such mobile mechanical unit. The license fee is twenty-five dollars (\$25) for each fixed location. The license fee for mobile units owned and operated by one distributor is twenty-five dollars (\$25) for the first unit and ten dollars (\$10) for each such additional mobile unit. The license expires on December 31 of each year.

(e) Each licensee shall furnish the *department* with a confidential written statement of the tonnage of each grade of fertilizer material used by him in this state in his blending and mixing operation. The statement shall cover the semiannual periods ending June 30 and December 31 of each year and shall be filed not later than thirty (30) days after the close

of each semiannual period. *The department may extend the filing deadline an additional thirty (30) days for a valid reason submitted in writing. Instead of the guaranteed analysis, the licensee must furnish to every purchaser and consumer in written or printed form an invoice or delivery ticket, showing the net weight and guaranteed analysis of every one of the materials used, which shall accompany delivery.*

(f) The distributor shall at all times produce a *thorough* and uniform mixture of fertilizer materials or soil amendments. When two (2) or more fertilizers are delivered in the same load, they shall be *thoroughly* and uniformly mixed unless they are in separate compartments.

(g) The *department may revoke or refuse to issue* the license upon satisfactory evidence that the licensee has used fraudulent and deceptive practices in the *evasion* or attempted *evasion* of this section. *However, a license may not be revoked or refused until the licensee is given a hearing by the department under section 3-1723.*

(h) *Fees collected under this section shall be deposited in the state treasury for credit to the earmarked revenue fund and shall be used for the expenses of administering sections 3-1712 through 3-1718 and 3-1720 through 3-1728."*

Section 89. Section 3-1717, R.C.M. 1947, is amended to read as follows:

"3-1717. **Inspection fees.** (1) *An inspection fee of fifteen cents (\$.15) per ton shall be paid to the department for all commercial fertilizers sold or distributed in this state. However, sales to manufacturers or exchanges between them are exempted. All fees collected under this section shall be deposited in the state treasury to the credit of the earmarked revenue fund and shall be used for the expenses of administering sections 3-1712 through 3-1718 and 3-1720 through 3-1728. On individual packages of commercial fertilizer containing ten (10) pounds or less, there is no inspection fee. If a person sells commercial fertilizer in packages of ten (10) pounds or less and in packages over ten (10) pounds, the inspection fee applies only to that portion sold in packages of over ten (10) pounds.*

(2) Payment of the inspection fee shall be evidenced by a statement of commercial fertilizer distributed, together with documents showing that fees corresponding to the tonnage were received by the *department*.

(3) A registrant who distributes commercial fertilizer in this state shall:

(a) File an affidavit semiannually, within thirty (30) days after January 1 and July 1, setting forth the number of net tons of commercial fertilizer distributed in this state during the preceding six (6) months' period. *Upon filing the statement, the registrant shall pay the inspection fee at the rate stated in subsection (1) of this section. If the tonnage report is not filed and the payment of the inspection fee is not made within fifteen (15) days after the date due, a collection fee of ten (10) per cent (minimum ten dollars (\$10)) of the amount due shall be assessed against the registrant, and the fees due are a debt and shall be the basis of a judgment against the registrant."*

Section 90. Section 3-1718, R.C.M. 1947, is amended to read as follows:

"3-1718. **Inspection, sampling, analysis.** (1) *The department, in cooperation with the agricultural experiment station of Montana state university, shall sample, inspect, analyze, and test commercial fertilizers distributed in this state at a time and place and to an extent necessary to determine whether the commercial fertilizers are in compliance with this chapter. The department may enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers subject to this chapter.*

(2) The methods of analysis and sampling shall be those adopted by the *department* from sources such as those of the association of official analytical chemists. The results of analysis, together with additional information the *department considers* advisable, shall be transmitted promptly to the manufacturer and to the dealer or person in whose possession the product was sampled.

(3) The *department, in determining whether any commercial fertilizer is deficient in plant food, shall be guided solely by the official sample obtained and analyzed as provided for in paragraphs (1) and (2) of this section.*

(4) If on the basis of an inspection or the analysis of the official sample a commercial fertilizer is found to be subject to penalty or other legal action, the *department shall forward to the registrant notification of the violation at least ten (10) days before its report is made public. If during that period no adequate evidence to the contrary is made available to the department, the report becomes official. Upon request, the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action."*

Section 91. Section 3-1721, R.C.M. 1947, is amended to read as follows:

"3-1721. **Grade-tonnage reports.** Each person registering commercial fertilizers under this *chapter shall furnish the department with a confidential written statement of the tonnage of each grade of commercial fertilizer sold by him in this state. The statement shall include all sales for the periods from January 1 through June 30 and from July 1 through December 31 of each year. The department may, in its discretion, cancel the registration of a person who fails to comply with this section if the above statement is not made within thirty (30) days from the close of each six (6) months' period. The department, in its discretion, may grant a reasonable extension of time. No information furnished under this section may be disclosed in such a way as to divulge the operation of any person. This report may, at the discretion of the registrant, be combined with the report required by section 3-1717 (2)."*

Section 92. Section 3-1722, R.C.M. 1947, is amended to read as follows:

"3-1722. **Publications.** The *department shall publish at least annually information concerning the sales of commercial fertilizers, together with*

data on their production and use as *it considers* advisable, and *shall* report the results of the analysis based on official samples of commercial fertilizers sold *in this state*."

Section 93. Section 3-1723, R.C.M. 1947, is amended to read as follows:

"3-1723. **Rules and hearings.** (1) For the enforcement of this chapter, the department may adopt and enforce necessary rules relating to the distribution of commercial fertilizers.

(2) The department shall, before denying the application for a registration or before canceling or revoking any registration, provide the applicant or distributor a hearing, and shall provide at least ten (10) days' written notice to the applicant or distributor. The notice may be served by delivering it personally to the applicant or distributor, or by mailing it by registered mail to the last known business address of the applicant or distributor. The hearing on the charges shall be held before the department at a time and place the department prescribes."

Section 94. Section 3-1724, R.C.M. 1947, is amended to read as follows:

"3-1724. **Cancellation of registration.** The department may cancel the registration of any commercial fertilizer or refuse to register any commercial fertilizer upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rules adopted under it. However, no registration may be revoked or refused until the registrant is given the opportunity to appear for a hearing by the department, as provided in section 3-1723."

Section 95. Section 3-1725, R.C.M. 1947, is amended to read as follows:

"3-1725. **"Stop sale" orders.** The department may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and may hold the fertilizer at a designated place when it finds the fertilizer is offered for sale in violation of this chapter. The department shall release the commercial fertilizer when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid."

Section 96. Section 3-1726, R.C.M. 1947, is amended to read as follows:

"3-1726. **Seizure, condemnation, and sale.** Commercial fertilizer not in compliance with the provisions of this chapter is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the commercial fertilizer is located. If the court finds the commercial fertilizer in violation of this chapter and orders the condemnation of the commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state. However, the commercial fertilizer may not be disposed of until the claimant is given an opportunity to apply to the court for release of the commercial fertilizer or for permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter."

Section 97. Section 3-1727, R.C.M. 1947, is amended to read as follows:

"3-1727. **Violations-enforcement proceedings — judicial review.** (1) If it appears from the examination of any commercial fertilizer that this chapter or the rules adopted under this chapter have been violated, the department shall give notice of the violations to the registrant, distributor, or possessor from whom the sample was taken. A person notified shall be given an opportunity to be heard under rules of the department. If it appears after a hearing, either in the presence or absence of the person notified, that this chapter or rules issued under this chapter have been violated, the department may certify the facts to the proper prosecuting attorney.

(2) A person who violates this chapter or the rules adopted under this chapter, or who obstructs, prevents, or attempts to prevent the department from performing its duty under this chapter, is guilty of a misdemeanor and shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) for the first violation, and not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000) for a subsequent violation. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis of the department is prima facie evidence of the composition.

(3) Nothing in this chapter requires the department to report for prosecution or for the beginning of seizure proceedings minor violations of this chapter when it believes that the public interest will be best served by a suitable notice of warning in writing.

(4) A prosecuting attorney to whom a violation is reported shall prosecute the violator in a court of competent jurisdiction without delay.

(5) The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(6) If a person adversely affected by an act, order, or ruling made by the department under this chapter is not entitled to a hearing before the department to determine his rights, he may within forty-five (45) days, sue in the district court of any county where the alleged violation giving rise to the department's act, order, or ruling occurred, for new trial of the issues bearing upon the act, order, or ruling. After the trial the court may issue and enforce those orders, judgments, or decrees it considers proper, just, and equitable."

Section 98. Section 3-1730, R.C.M. 1947, is amended to read as follows:

"3-1730. **Allocation of assessments.** The assessment shall be collected by the department and up to one per cent (1%) shall be retained by the department for costs of collection. The balance shall be deposited in the earmarked revenue fund with fifty per cent (50%) for use by the

cooperative extension service and fifty per cent (50%) for use by the agricultural experiment station in programs recommended by the fertilizer advisory committee provided for in section 82A-513 and approved by the respective directors."

Section 99. Section 3-1732, R.C.M. 1947, is renumbered 82A-513, and is amended to read as follows:

"82A-513. Advisory committee — appointment — qualifications — term. (1) *There is a fertilizer advisory committee.*

(2) *The committee consists of five (5) members. The members shall represent the fertilizer users of the state. The members shall be appointed by the dean of agriculture of Montana state university with the approval of the chairman of the Montana house of representatives agriculture and irrigation committee, the chairman of the Montana senate agriculture committee, the chairman of the Montana plant food association or its successor organization, the director of the cooperative extension service, and the director of the Montana agricultural experiment station.*

(3) *The members shall serve staggered five (5) year terms. A member may not serve more than seven (7) consecutive years."*

Section 100. Section 3-1906, R.C.M. 1947, is amended to read as follows:

"3-1906. Administration. *The department shall administer and enforce this act. The department may adopt necessary rules to administer and enforce this act. The department shall fix the fees for inspection and weighing of mustard seed and the fees are a lien upon the mustard seed until paid. The fees shall be collected by the department. The department shall deposit the fees with the state treasurer who shall deposit them in the earmarked revenue fund. All operating expenses of this act shall be paid from those fees."*

Section 101. Section 3-1908, R.C.M. 1947, is amended to read as follows:

"3-1908. License and bond for persons contracting for purchase of mustard seed — when required — deposit of fees — revocation of licenses. (1) *All persons, firms, copartnerships, corporations and associations engaging in the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid for on delivery of the crops shall, before March 1 of each year, pay to the state treasurer a license fee of ten dollars (\$10), and shall before March 1 of each year, give a bond with sureties approved by the department, in an amount the department may require but not less than ten thousand dollars (\$10,000). The bond shall be conditioned upon the payment for the contracted seed at the price specified in the contract, and upon the payment of the license fee. Upon the approval of the bond, the department shall issue the license for a period of one (1) year.*

(2) *A person who begins the business described in subsection (1) of this section after March 1 of any year shall pay the license fee and furnish the bond before engaging in the business.*

(3) *A licensee under this section shall, at the request of the department, report the amount of seed contracted.*

(4) *All funds collected from license fees shall be deposited by the department with the state treasurer for credit to the general fund.*

(5) *The department may revoke for cause any license issued under this section."*

Section 102. Section 3-1909, R.C.M. 1947, is amended to read as follows:

"3-1909. Enforcement. *The department shall enforce this act, and for that purpose shall adopt necessary and proper rules."*

Section 103. Section 3-2801, R.C.M. 1947, is amended to read as follows:

"3-2801. Trust assets of rural rehabilitation corporation — department of agriculture designated to make application. *The department of agriculture is designated as the department of Montana state government to apply to the secretary of agriculture of the United States, or any other proper federal official, under Public Law 499, eighty-first Congress, approved May 3, 1950, for the return of the trust assets, either funds or property, held by the United States as trustee in behalf of the Montana rural rehabilitation corporation."*

Section 104. Section 3-2802, R.C.M. 1947, is amended to read as follows:

"3-2802. Agreements with United States secretary of agriculture authorized. *The department shall enter into agreements with the secretary of agriculture of the United States under section 2 (f) of Public Law 499, 81st Congress upon terms and conditions and for periods of time as are mutually agreeable, authorizing the secretary of agriculture of the United States to accept, administer, spend, and use in the state all or any part of the trust assets or any other funds of the state which may be appropriated for carrying out the purposes of Titles I and II of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title IV thereof, as amended; and do all things necessary to carry out the agreements."*

Section 105. Section 3-2803, R.C.M. 1947, is amended to read as follows:

"3-2803. Administration of trust assets. *Funds and the proceeds of the trust assets which are not authorized to be administered by the secretary of agriculture of the United States under section 3-2802 shall be received by the department, and paid by it to the state treasurer for deposit in the federal and private grant clearance fund and used for expenditure or obligation by the department for the purpose of section 3-2802, or for the rural rehabilitation purposes permissible under the charter of the now dissolved Montana rural rehabilitation corporation as may be agreed upon between the department and the secretary of agriculture of the United States, subject to Public Law 499."*

Section 106. Section 3-2804, R.C.M. 1947, is amended to read as follows:

"3-2804. Powers of department — claims and obligations — property acquired at foreclosure. (1) *The department may:*

(a) Collect, compromise, adjust, or cancel claims and obligations arising out of or administered under this *chapter* or under any mortgage, lease, contract, or agreement entered into or administered *under this chapter* and, if necessary, pursue *them* to final collection in any court having jurisdiction;

(b) Bid for and purchase at any execution, foreclosure, or other sale, or otherwise acquire property upon which the *department* has a lien by reason of a judgment or execution, or which is pledged, mortgaged, or conveyed, or which otherwise secures any loan or other indebtedness owing to or acquired by the *department* under this *chapter*;

(c) Accept title to any property so purchased or acquired; operate or lease *the* property for a period necessary to protect the investment; and sell or otherwise dispose of *the* property in a manner consistent with this *chapter*.

(2) The authority *granted to the department in this section* may be delegated to the secretary of agriculture of the United States with respect to funds or assets authorized to be administered and used by him under agreements entered into *under section 3-2802*."

Section 107. Section 3-2805, R.C.M. 1947, is amended to read as follows:

"3-2805. United States and secretary of agriculture free from liability. The United States and the secretary of agriculture *are* free from liability by virtue of the transfer of the assets to the *department under this chapter*."

Section 108. Section 3-2902, R.C.M. 1947, is amended to read as follows:

"3-2902. Declaration of policy. In the presence of the facts that wheat is the principal grain crop produced in Montana, and as such is an agricultural resource of the first magnitude in the economy of the inhabitants of Montana, a prime factor in the production of wealth and the development and stabilization of property values and of activities and enterprises which are bases and sources of important contributions by taxation to the public revenues, and that Montana wheat is a commodity which enters a world market highly competitive in character, it is hereby declared to be the public policy of the state of Montana to protect and foster the health, prosperity and general welfare of its people by encouraging and promoting intensive, scientific and practical research into all phases of wheat culture and production, marketing and use and into the development of markets for wheat grown in Montana by the department of agriculture."

Section 109. Section 3-2904, R.C.M. 1947, is amended to read as follows:

"3-2904. Definitions. As used in this act, unless the context requires *otherwise*:

(1) "Committee" means the Montana wheat research and marketing committee *provided for in section 82A-304*;

(2) "Grower" means any landowner personally engaged in growing wheat, a tenant of the landowner personally engaged in growing wheat, or both the owner and the tenant jointly; and includes a person, partnership, association, corporation, co-operative, trust, sharecropper, and any and all other business units, devices, and arrangements;

(3) "First purchaser" means any person, public or private corporation, association, or partnership, buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, where the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) "Commercial channels" means the sale of wheat for any use, when sold to any commercial buyer, dealer, processor, co-operative, or to any person, public or private, who resells any wheat or product produced from wheat; and

(5) "Sale" includes any pledge or mortgage of wheat, after harvest, to any person, public or private."

Section 110. Section 3-2906, R.C.M. 1947, is amended to read as follows:

"3-2906. Compensation — per diem. Members of the committee shall receive no salary, but shall be paid, from the wheat research and marketing account in the *federal and private revenue* fund, a per diem of twenty dollars (\$20) for each day they are engaged in the transaction of official business, together with their actual and necessary expenses incurred while on official business."

Section 111. Section 3-2909, R.C.M. 1947, is amended to read as follows:

"3-2909. Powers of the committee. (1) *The committee may:*

(a) *Adopt rules necessary for the administration of this act;*

(b) *Provide, through the department, for the enforcement of this act;*

(c) *Provide for the conduct of research into the production, marketing, and uses of wheat;*

(d) *Enter into contracts or agreements with Montana State University and other local, state, or national organizations, public or private, for the purposes of improving wheat quality, increasing the efficiency of production, developing marketing knowledge, developing markets, determining new uses for wheat, developing alternative crops for wheat, and carrying out all research and marketing contemplated by this act. The committee may not establish research units or agencies of its own.*

(2) *No researchers or professional or scientific personnel may be employed to carry out this act except as provided in subsection (1)(d) of this section.*

(3) *None of the powers or duties provided for in this act permit participation in state or federal political action by the committee."*

Section 112. Section 3-2913, R.C.M. 1947, is amended to read as follows:

"3-2913. Buyer's delivery of invoice to grower — form — filing of sworn statement — payment of assessment. (1) The purchaser of the wheat at the time of sale, or the pledgee, mortgagee, or other lender at the time of the loan or advance, shall give separate invoices for each purchase to the grower. The invoices shall be on forms approved by the department and shall show:

- (a) *The name and address of the grower and seller;*
- (b) *The name and address of the purchaser or the lender;*
- (c) *The number of bushels of wheat sold, mortgaged, or pledged;*
- (d) *The date of the purchase, mortgage, or pledge and the amount of assessment collected and remitted to the department.*

(2) The purchaser, mortgagee, or pledgee shall file with the department, on forms prescribed by the department, *within twenty (20) days after the end of a month in which he purchases a grower's wheat or in which a lender makes a loan or advance on a grower's wheat*, a sworn statement of the number of bushels of wheat purchased in Montana or the number of bushels mortgaged or pledged, or otherwise transferred or liened as security for a loan, during the preceding calendar month. At the time the sworn statement is filed, the purchaser or lender shall pay to the department the assessment provided for in *section 3-2911* for deposit in the wheat research and marketing account in the revolving fund.

(3) The statement referred to in *subsections (1) and (2)* of this section shall be legibly written and shall be entirely free of any corrections or erasures. A person *may not* alter any part of a statement.

(4) *After thirty (30) days and before ninety (90) days following the deduction of the assessment by the first purchaser or the first lender, the grower may, upon the submission of a written, verified request to the department, obtain a refund of the assessment. The request shall be accompanied by the original invoices received by the grower at the time of settlement. The department shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two (2) years after the refund is made. All original invoices shall be returned to the grower with the refund payment."*

Section 113. Section 3-2915, R.C.M. 1947, is amended to read as follows:

"3-2915. Receipt of gifts, grants or donations for research purposes. The department may receive any gifts, grants, or donations for any research of scientific inquiries conducted under this act, and may spend them in compliance with the conditions of the grants, gifts, and donations."

Section 114. Section 3-2916, R.C.M. 1947, is amended to read as follows:

"3-2916. Official bonds of employees. *Employees of the department participating in the handling of assessment receipts or other receipts shall be bonded for the faithful and safe handling and accounting for the receipts while in their hands and for faithful compliance with this act."*

Section 115. Section 3-2917, R.C.M. 1947, is amended to read as follows:

"3-2917. Research and marketing account — sources — use — expenditures. (1) There shall be an account in the federal and private revenue fund known as the wheat research and marketing account. The following shall be placed in the account:

- (a) *The proceeds of all millage levies collected under this chapter, and*
 - (b) *The proceeds from all gifts, grants, or donations to the department for research authorized under this chapter.*
- (2) The account shall be maintained for the purposes of this chapter and shall be separate from all other accounts of the department."

Section 116. Section 16-1105, R.C.M. 1947, is amended to read as follows:

"16-1105. Appropriating money for advertising of county products authorized. The board of county commissioners of any county may appropriate money from the general fund of the county for advertising the agricultural resources of the county, through the department of agriculture, or for assisting the department of agriculture in presenting exhibits of Montana products at fairs or expositions outside the state."

Section 117. Section 16-1708, R.C.M. 1947, is amended to read as follows:

"16-1708. Embargo against introduction of noxious weed seed from other states. *If the department of agriculture believes that movements of grain, plants, seed, tubers, nursery stock, hay, straw, fruit, or other materials containing noxious weed seed or plants dangerous or inimical to the horticultural or agricultural industries are about to be introduced into the state, it may advise the governor. The governor shall, by proclamation, declare an embargo against the importation or shipment of the grain, plants, tubers, nursery stock, seed, hay, straw, fruit, or other materials into the state, except under restrictions established in this act, and provided in the rules adopted by the department of agriculture."*

Section 118. Section 16-1708.1, R.C.M. 1947, is amended to read as follows:

"16-1708.1. Rules for enforcement of interstate embargo. The department of agriculture shall adopt all necessary rules in the enforcement of an embargo proclaimed as provided in section 16-1708. The department of agriculture, in adopting the rules, may provide for the establishment of inspection stations, the appointment of inspectors, the establishment of the inspection fees, the issuance of certificates, the

methods of transporting and packaging, and other rules and procedures necessary to carry out this act."

Section 119. Section 16-1708.3, R.C.M. 1947, is amended to read as follows:

"16-1708.3. **Disposition of fines and inspection fees.** All fines levied as provided in section 16-1708.2, and all fees collected from inspections shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the *department* of agriculture for the purpose of administering and enforcing this act."

Section 120. Section 27-216, R.C.M. 1947, is amended to read as follows:

"27-216. **Definitions.** *Unless the context requires otherwise, in this act:*

(1) "Active ingredient" means:

(a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, alter life processes, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

(b) In the case of a plant regulator, an ingredient which acts upon the physiology to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or *their* produce.

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) "Adulterated" *applies* to a pesticide if its strength of purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the *pesticide* has been wholly or in part abstracted.

(3) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) "Applicator" means a person who applies pesticides by any method.

(5) "Commercial applicator" means a person who by contract or for hire applies by aerial, ground, or hand equipment pesticides to land, plants, seed, animals, waters, structures, or vehicles.

(6) "Commercial operator" means a person who applies pesticides under the supervision of a commercial applicator.

(7) "Farm applicator" means a person applying pesticides to his own crops or land.

(8) "Public utility applicator" means a person applying pesticides to land and structures owned or leased by a public utility.

(9) "Beneficial insects" means those insects which, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial.

(10) "Crop" means a food intended for human or animal consumption or a fiber product.

(11) "Dealer" means a person who sells, wholesales, offers, or exposes for sale, exchanges, barter, or gives away within this state any pesticide except those pesticides which are to be used for home, yard, garden, home orchard, shade trees, ornamental trees, bushes, and lawn.

(12) "Defoliant" means a substance or mixture of substances for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(13) "Desiccant" means a substance or mixture of substances for artificially accelerating the drying of plant tissue.

(14) "Device" means any instrument or contrivance intended for destroying, controlling, repelling, or mitigating pests but not equipment used for the application of pesticides.

(15) "Environment" means the soil, air, water, plants, and animals.

(16) "Equipment" means equipment used in the actual application of pesticides, including aircraft, ground sprayers and dusters, hand-held applicators, and water surface equipment.

(17) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those resident on or in living man or other animals.

(18) "Fungicide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating any fungus.

(19) "Herbicide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating any weed.

(20) "Inert ingredient" means an ingredient which is not an active ingredient.

(21) "Ingredient statement" means either:

(a) A statement of the chemical name and common name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; or

(b) A statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. *However, subsection (21) (a) of this section applies if the preparation is highly toxic to man, determined as provided in section 27-234, and if the pesticide contains arsenic in any form, the ingredient statement shall also include a statement of the percentage of total and water-soluble arsenic, each calculated as elemental arsenic.*

(22) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of arthropods whose members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.

(23) "Insecticide" means any substance or mixture of substances for preventing, destroying, repelling, or mitigating any insects present in any environment.

(24) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device, or to its immediate container, and any outside container or wrapper of any retail package of the pesticide or device.

(25) "Labeling" means all labels and other written, printed, or graphic matter:

- (a) Upon the pesticide or device or any of its containers or wrappers;
- (b) Accompanying the pesticide or device at any time;

(c) To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of the United States environmental protection agency, departments of agriculture, interior, or health, education, and welfare, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(26) "Misbranded" applies:

(a) To a pesticide or device if its labeling bears any statement, design, or graphic representation relative to its ingredients which is false or misleading.

(b) To a pesticide if:

(i) It is an imitation of or is offered for sale under the name of another pesticide;

(ii) Its labeling bears any reference to registration under this act;

(iii) The labeling accompanying it does not contain instructions for use necessary and, if complied with, adequate for the protection of the public;

(iv) The label does not contain a warning or caution statement necessary and, if complied with, adequate to prevent injury to living man or undue hazard to the environment;

(v) The label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read;

(vi) Any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(vii) In the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to living men or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

(viii) In the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to man or other vertebrate animals or vegetation to which it is applied, or to the person applying the pesticide. Physical or physiological effects on plants or parts of plants are not injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

(27) "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(28) "Nematodes," "nemas," or "eelworms" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, animals, plants, or plant parts.

(29) "Person" means any natural person, individual, firm, partnership, association, corporation, company, joint-stock association, body politic, or organized group of persons whether incorporated or not, and any trustee, receiver, assignee, or similar representative.

(30) "Pest" includes any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered a pest or which the department declares a pest.

(31) "Pesticide" means any:

(a) Substance or mixture of substances, including any living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, that may infect, or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which the department declares a pest;

(b) Substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and,

(c) Other substances intended for that use named by the department by a rule adopted by it.

(32) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering

physiological condition of plants, but *does* not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(33) "Registrant" means the person registering any pesticide or device under the provisions of this act.

(34) "Restricted use pesticide" means any pesticide, including highly toxic pesticides, which the department of agriculture has found and determined, subsequent to a hearing, to be injurious when used in accordance with registration, label, directions and cautions to persons, beneficial insects, animals, crops or the environment other than the pests it is intended to prevent, destroy, control or mitigate.

(35) "Retailer" means any person who sells, offers, or exposes for sale, exchanges, barter, or gives away within this state any pesticide for home, yard, lawn and garden use, in quantities or concentrations as determined by the department of agriculture.

(36) "Weed" means any plant or part of the plant which grows where not wanted."

Section 121. Section 27-217, R.C.M. 1947, is amended to read as follows:

"27-217. **Registration.** (1) Every pesticide distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state, shall be registered with the department of agriculture. The registration shall be renewed annually by the manufacturer or formulator of the pesticide. The department of agriculture shall register all approved pesticides and those registered *are* subject to registration fees and all other provisions of this act. All registrations of pesticides expire on December 31 following the date of issuance, unless otherwise terminated.

(2) The applicant for registration shall file with the department of agriculture a statement including:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant;

(b) A complete copy of the label of the pesticide, the United States environmental protection agency registration number, if the pesticide is so registered, and a statement of all claims to be made for it including directions for use;

(c) The trade and chemical name of the pesticide;

(d) If requested by the department of agriculture, a full description of tests made and the results upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(3) Any pesticide imported into this state, which is subject to the provisions of any federal act providing for the registration of pesticides and

which has been registered under the provisions of a federal act, shall be registered in the state. *However*, the state may restrict the use and application of the pesticide by type of applicator, time, and place and may establish special registrations of pesticides as outlined in *subsection (9) of this section and section 27-234 (3)*. The annual registration fee *must also be paid* and registration information required by the department of agriculture *must be provided*.

(4) The applicant shall pay an annual fee of ten dollars (\$10) for each pesticide registered. *Fees collected shall be deposited in the state treasury to the credit of the general fund.*

(5) The department of agriculture may require the submission of the complete formula and certified analytical standards of any pesticide. If it appears to the department of agriculture that the composition of the article *warrants* the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 27-218, it shall register the article.

(6) If it does not appear to the department of agriculture that the article *warrants* the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with *this chapter*, it shall notify the applicant of the manner in which the articles, labeling, or other material required to be submitted fails to comply with the act so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of the notice, the applicant does not make the corrections, the department of agriculture may refuse to register the article. The department of agriculture in accordance with the procedures specified by the department of agriculture, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling comply with this act. *When* an application for registration is refused or the department of agriculture proposes to suspend or cancel a registration, the registrant may appeal to the department of agriculture as provided for in section 27-236.

(7) The department of agriculture shall review all registered pesticides at least every two (2) years.

(8) *Registration* is not required in the case of a pesticide shipped from one plant in *this state* to another plant in *this state* by the same person.

(9) (a) The departments of health and environmental sciences, agriculture, and fish and game shall review all applications for registration of a pesticide or device submitted to the department of agriculture. The department of agriculture shall provide the departments of health and environmental sciences and fish and game with a complete copy of the application, related correspondence and a statement of the department of agriculture's proposed action on the application. The departments of health and environmental sciences and fish and game shall approve or disapprove the application within three (3) days after the receipt of the application. If the departments of health and environmental sciences, agriculture, and fish and game are in agreement with the proposed registration, the department of agriculture shall proceed with its registration.

(b) The department of agriculture shall establish a time and place for

an interagency conference for the purposes of resolving the registration of any pesticide or device. If two (2) of the departments approve the proposed registration, the department of agriculture shall proceed with the registration.

(c) The registrant applying for registration shall be notified as to proposed changes in registration. If the departments cannot resolve the proposed registration following the interagency conference, the registrant may request a joint administrative hearing before the departments of agriculture, health and environmental sciences, and fish and game.

(d) Following the interagency conference, and if requested, the administrative hearing, if the proposed registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory council as outlined in section 27-240 to resolve by majority vote the registration of any pesticide. The advisory council's recommendations on the registration shall be accepted by the departments and implemented by the department of agriculture."

Section 122. Section 27-222, R.C.M. 1947, is amended to read as follows:

"27-222. **Application for applicator's license.** (1) Application for a pesticide applicator's license provided for in section 27-221 shall be made annually, before applying pesticides in any calendar year, from the department of agriculture.

(2) If the application is made for a license to engage in aerial application of pesticides, the applicant shall first meet all of the requirements of the federal aviation agency and the department of intergovernmental relations to operate the equipment described in the application."

Section 123. Section 27-234, R.C.M. 1947, is amended to read as follows:

"27-234. **Rules and regulations.** (1) The department of agriculture may adopt by reference without a public hearing regulations adopted under the federal insecticide, fungicide, and rodenticide act, as amended. The department may, after a public hearing, adopt all rules and regulations necessary to carry out this act.

(2) The rules may prescribe methods of:

(a) Registration, application, use or restricting use, prohibiting use, offering or exposing for sale, any pesticide;

(b) Determining whether pesticides are highly toxic to man;

(c) Determining standards of coloring or discoloring for pesticides, and subjecting pesticides to the requirements of section 27-218;

(d) Licensing commercial applicators and operators, dealers, retailers, establishing methods of record keeping for applicators, operators, dealers, and retailers, and providing for the review of the records by the department of agriculture's authorized agent and the submission of the records to the department of agriculture upon written request;

(e) Issuing farm applicator special use permits and the maintenance and submission of records by farm applicators issued special use permits;

(f) Collection, examination, and standard deviation from guarantee analysis and umpire analysis of pesticides and devices;

(g) Operating and maintaining equipment used by applicators;

(h) Developing examinations which shall be held periodically throughout the state;

(i) Establishing the form and content of all applications for licenses and permits;

(j) Designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department of agriculture may also limit retail sale of pesticides, up to a specific number of pounds or gallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

(k) Revoking licenses and permits;

(l) Registering or controlling any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used;

(m) Registering pesticide fertilizer and other chemical blends or, instead of registration, establishing licensing, inspection, and fees for blending plants.

(n) Establishing registration procedures for devices with a fee not to exceed five dollars (\$5) per type of device, specifying classes of devices to be registered and providing for additional requirements.

(3) Where the department of agriculture finds that those rules and regulations are necessary to carry out the purposes and intent of this act, the rules and regulations may relate to the time, place, manner, and method of registration, application, or selling of the pesticides, may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of time and shall encompass all reasonable factors which the department of agriculture considers necessary to prevent damage or injury to:

(a) Persons, animals, or pollinating insects from the effect of drift or careless application;

(b) The environment;

(c) Plants, including forage plants;

(d) Wildlife;

(e) Fish and other aquatic life.

In issuing *the* regulations, the department of agriculture shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government.

(4) If the department of agriculture finds that an emergency exists which requires immediate action with regard to the registration, use or application of pesticides, the *department of agriculture* may, without notice or hearing, issue necessary orders, rules, or regulations to protect the public health, welfare, and safety. An order, rule, or regulation issued under this *subsection* is effective for a period no longer than sixty (60) days after it is issued. If the department of agriculture determines that the emergency order, rule, or regulation should remain in effect, a public hearing under section 27-235 shall be held within the sixty (60) day period to determine whether the order, rule, or regulation should be adopted by the department of agriculture.

(5) All rules, regulations, and orders issued by the department of agriculture shall be in writing, shall be entered in full in books to be kept by the department of agriculture for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the department of agriculture shall include and be based upon written findings of fact. A copy of any rule, regulation, or order certified by the department of agriculture or its secretary shall be received in evidence in all courts of this state with the same effect as the original."

Section 124. Section 27-235, R.C.M. 1947, is amended to read as follows:

"27-235. **Hearings.** (1) Public hearings. Except as provided in section 27-234, no rule or regulation shall be *adopted* by the department of agriculture without a public hearing upon at least twenty-one (21) days notice. The public hearing shall be held at such time and place as may be prescribed by the department of agriculture, and any interested person is entitled to be heard.

(a) Notice of public hearing on the adoption of rules or regulations shall be made by the department of agriculture as follows:

(i) Informal notice of the hearing will be sent to all registrants of pesticides, to all licensed pesticide applicators, including farm applicators with restricted use permits, and to all licensed pesticide dealers or retailers, provided that the notice shall be sent only to the respective group or groups directly affected by the rules and regulations. Farm applicators of nonrestricted pesticides will be given informal notice through farm groups, organizations or associations and by means of farm publications.

(ii) In all cases of public hearings for adoption of rules and regulations, notice thereof shall be published in five (5) newspapers of general circulation in the state once a week for two (2) successive weeks and the department of agriculture shall issue appropriate press releases.

(iii) Notices and publications shall be issued in the name of the state

of Montana, shall be signed by the *director* of agriculture, shall specify the style and number of the proceedings, and the time and place of the hearing, and shall briefly state the purpose of the proceeding and method of procedure.

(iv) Proof of service by publication shall be made by the affidavit of the printer or publisher of the newspaper. Proof of service by mailing shall be made by the affidavit of the *director* of agriculture.

(2) Complaints. In all cases where a complaint has been made by the department of agriculture or its authorized agents or by any person that any provision of this act or any rule, regulation, or order of the department of agriculture is being or has been violated, notice of the hearing to be held on such complaint shall be given to the interested persons.

(3) Except as otherwise in this act provided, the department of agriculture may act upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the department of agriculture, the department of agriculture shall promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department of agriculture shall enter its order and findings on complaints and petitions within thirty (30) days after the hearing."

Section 125. Section 27-236, R.C.M. 1947, is amended to read as follows:

"27-236. **Administrative appeals.** Persons adversely affected by a decision or proposed decision by the department of agriculture may request a hearing before the *director of agriculture* to show cause for the action or proposed action of the department of agriculture. (1) The application for a hearing shall be acted upon within ten (10) days after its filing, and if granted, the hearing shall be held without undue delay."

Section 126. Section 27-240, R.C.M. 1947, is amended to read as follows:

"27-240. **Advisory council.** (1) The *director* of agriculture may appoint an advisory *council* to study and make recommendations on special pesticide problems in the state. The *council* shall consist of individuals representing, equally, controlled industry, agriculture, health, and wildlife. Governmental personnel, university personnel not included, *may* not be represented on the *council*. Governmental personnel shall meet with the *council* in an advisory capacity when requested by the *council*. The *council* may not exceed twelve (12) members. The *director* of agriculture shall establish the time period in which the *council* shall *exist*. The time period *may* not exceed two (2) years. The department of agriculture shall provide the necessary administrative, secretarial, and any other essential items to the *council*.

(2) Each member of the *council* shall receive as compensation for his services the sum of twenty-five dollars (\$25) per day for each day actually spent in the performance of his duties and shall be reimbursed for actual per diem and necessary traveling expenses as provided by law.

(3) The *council* may request that the department of agriculture hold a public hearing as outlined in section 27-235, to assist it in gathering factual data and information on the special problems assigned it."

Section 127. Section 82-804.2, R.C.M. 1947, is renumbered section 75-8806, and is amended to read as follows:

"75-8806. **Duties of the cooperative extension service.** *The cooperative extension service within the department of education shall conduct investigations pertaining to insects and other arthropods affecting plants and animals. When an injurious infestation of an insect or other arthropod occurs in any part of the state, the authorized employees of the cooperative extension service shall go to the scene of the infestation, shall determine the extent and seriousness of the infestation, and make public the best remedies to be employed.*"

Section 128. Section 82-805, R.C.M. 1947, is renumbered section 3-3101, and is amended to read as follows:

"3-3101. **Definitions.** *Unless the context requires otherwise, in this chapter:*

(1) "Apiary" means a place where one (1) or more colonies of bees are kept, or one or more hives containing honeycombs or bee combs are kept.

(2) "Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives, and includes containers of honey and wax which may be used in an apiary or in transporting bees and their products and apiary supplies.

(3) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container, natural or artificial, or a part of a container, which may be used as a domicile for bees.

(4) "Bees" means any stage of the bees in the genus *Apis*.

(5) "Bee diseases" means American or European foulbrood, sacbrood, bee paralysis, or other disease or abnormal condition of egg, larval, pupal, or adult stages of bees.

(6) "Colony" means the hive and all equipment used in connection with the hive.

(7) "Persons" means individuals, associations, partnerships, or corporations.

(8) "Queen Apiary" means an apiary or premises in which queen bees are reared or kept for sale or gift."

Section 129. Section 82-806, R.C.M. 1947, is renumbered section 3-3102, and is amended to read as follows:

"3-3102. **Apiaries — powers and duties of the department of agriculture.** To prevent the spread of contagious and infectious disease among bees and apiaries, the department of agriculture may:

(1) Order the transfer of colonies of bees from hives or containers

which cannot be properly examined for brood or other diseases to other hives or containers;

(2) Order disinfection of any bee, beehive, brood comb, or any other equipment which is infected or contaminated and burn any infected or contaminated bee, beehive, brood comb, or any other equipment, if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the owner or person in charge a written notice at least five (5) days before the date on which the property will be burned. The notice shall be given by registered mail or personal service upon the owner or person in charge of the property.

(3) Quarantine any apiary where foulbrood or any contagious or infectious diseases are present and, during the quarantine, prevent the removal from the apiary of any bees or equipment except under a special permit issued by the department permitting the removal under conditions prescribed by it. A person may not sell or offer for sale any apiary, bees, or equipment which are under quarantine, unless a permit authorizing the sale or removal is issued by the department. Written notice of quarantine shall be posted by the department, owner, or person in charge at the quarantined apiary at a conspicuous place and a copy shall be personally served or sent by registered mail to the owner of the apiary or person in charge. The quarantine continues in effect until it is ordered removed and a copy of the removal order served in the same manner.

(4) Inspect any apiary, hives, equipment or premise for the presence of disease."

Section 130. Section 82-807, R.C.M. 1947, is renumbered section 3-3103, and is amended to read as follows:

"3-3103. **Registration.** (1) A person who owns or possesses an apiary in the state shall, before April 1 each year, register the apiary.

(2) Applications shall be made to the department for registration blanks.

(3) Registration blanks shall be furnished by the department. The blank shall contain: (a) a statement of the name, place of residence, and place of business of the owner; (b) the number of colonies of bees, hives, and equipment in the apiary; (c) the location of the apiary, setting forth specifically the location by sectional division to the nearest quarter section, and the township and range, and, if within the corporate limits of a town or city, the number of the lot and block in the town or city; (d) the name of the owner, renter, or occupant of the land on which the apiary is located; (e) the date when the location was first established; and (f) other information the department may require under rules adopted by it for the protection, safety, and welfare of the public and beekeeping industry.

(4) Upon receipt of the application, and payment of the fees prescribed, the department shall issue a certificate of registration for an apiary, setting forth the name of the owner, the specific location, and the number of colonies of bees or size of the apiary authorized under the registration.

(5) In issuing certificates of registration for apiaries, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest continuous established location.

(6) Certificates of registration *may* not be issued for new locations of apiaries which are within such close proximity to established registered apiaries that there is or may be danger of spread of disease, or that *the* proximity will or may interfere with the proper feeding and honey flow of established apiaries.

(7) Before authorizing the establishment of new locations, the department shall give at least ten (10) *days' notice* by registered letter to all registered apiarists likely to be affected by the proposed new location so that any party affected may file written protests with the department against authorizing *the* new locations. *If* a written protest is filed, the department may require a hearing. *Notice* of the time and place of *the* hearing shall be given all parties interested by registered mail at least ten (10) days before the date set for the hearing.

(8) Suitable evidence of registration furnished by the department shall be posted in a conspicuous place at or near the location of the colony of honeybees or beehives. If an owner has more than one location, suitable evidence of registration furnished by the department shall be posted at each location.

(9) A registration not applied for by April 1 of each year is a late registration and *incurs* an added penalty of ten (10) per cent of the regular registration fee. Registrants who fail to apply for reregistration by April 1 of each year, shall be notified of their delinquency by the department. *The* notification shall be by registered mail and *is* sufficient if deposited in a United States post office or mail box and addressed to *the* registrant at his last address appearing in the bee location registration files of the department at least ten (10) days *before* May 1. A location for which application for reregistration is not made by May 1 of each year *is forfeited* and all rights *under the location* terminate."

Section 131. There is a new section to be numbered 3-3104, R.C.M. 1947, which reads as follows:

3-3104. Changing locations — enlarging or selling apiaries. (1) An owner of an established registered apiary may not change locations without first receiving from the department a permit to establish the new location. In making the application, he shall specify the location with the same particularity as in the application or original registration. If the new location is not used within sixty (60) days after a permit is issued, the permit lapses and all rights under the permit terminate. Permits for new locations may not be issued for greater areas than the applicant can show are reasonably necessary for his needs consistent with good beekeeping practice.

(2) Any right a beekeeper has to a location may be sold or transferred to a purchaser subject to this chapter, if all bees and equipment on the location are sold to the purchaser.

Section 132. There is a new section to be numbered 3-3105, R.C.M. 1947, which reads as follows:

3-3105. Apiaries — termination of rights — abandonment. (1) An old apiary location which is not stocked with bees during at least part of the normal build-up or honey-producing season is forfeited and all rights under the location terminate. The location is open for new registration at the next regular registration time.

(2) An apiary not regularly attended in accordance with good beekeeping practice, which comprises a hazard or threat to disease control in the beekeeping industry, or which by reason of its physical condition or construction cannot be inspected may be considered an abandoned apiary and may be seized by the department. Any diseased equipment or equipment which by reason of its physical condition or construction cannot be inspected, may be burned and the remainder may be sold at public auction. Proceeds, after the cost of the sale are deducted, shall be returned to the former owner or his estate. Before burning or selling any equipment, the department shall give the owner or person in charge a written notice at least five (5) days before the burning or sale. The notice shall be given by registered mail or personal service upon the owner or person in charge of the property. If the owner or person in charge cannot be located, a registered letter sent to the owner's last address registered with the department is sufficient notice under this section.

Section 133. Section 82-808, R.C.M. 1947, is renumbered section 3-3106, and is amended to read as follows:

"3-3106. Registration fees. (1) Each year before a certificate of registration *may* be issued for *an* apiary, the owner or applicant for *the* certificate shall pay the department a registration fee in accordance with the following schedule of fees for the total number of colonies owned or possessed:

1 to 10 colonies of bees.....	\$ 2.50
11 to 50 colonies	5.00
51 to 200 colonies	10.00
201 to 300 colonies	15.00
301 to 500 colonies	20.00
501 to 1000 colonies	30.00
1001 to 2000 colonies	35.00
2001 to 3000 colonies	45.00
3001 to 4000 colonies	55.00
4001 to 5000 colonies	65.00
5001 colonies and upward.....	75.00

(2) If, after registration, additional or new colonies are added, fees shall be paid in accordance with the schedule *in subsection (1)* for the total number of colonies for that year."

Section 134. Section 82-809, R.C.M. 1947, is renumbered section 3-3107, and is amended to read as follows:

"3-3107. Inspection of bees or used beekeeping equipment transported interstate. (1) *A person may not transport or bring into the state any used beekeeping equipment or containers, including honey to be extracted, unless it is certified and duly marked as disease-free by an official, responsible for apiary regulations, of the state from which it is being moved. The department shall be advised in advance of the date of entry and the destination of the material. Used equipment transported into the state shall be quarantined by the department in accordance with subsection (3) of section 3-3102, from the time it enters the state until it has been in use while under quarantine for a minimum of ninety (90) days and at least until the following July 1.*

The department may also inspect, and certify as disease-free, bees or beekeeping equipment which are to be transported from Montana to a state which requires an inspection in the state of origin.

(2) *The costs of making the inspections provided for in subsection (1) shall be paid in advance by the owner of the bees or equipment and shall include a per diem of ten dollars (\$10), necessary traveling expenses, and a fee of five dollars (\$5) for the issuance of a certificate of health. If inspection by an official of any other state is considered insufficient for the protection of the Montana bee industry by the department, the department shall so state by public statement. Importation of beekeeping materials, including honey for extracting, from that other state shall be denied, unless the materials or honey are first inspected by the department, and there is obtained from it a certificate of inspection showing that the materials or honey are apparently free from contagious or infectious disease. The costs of making the inspection shall be paid by the person requesting it, and inspection may be made at any point outside this state convenient to the person making the inspection. The department may require that the costs of making the inspection be paid in advance and the costs shall include per diem of ten dollars (\$10), necessary traveling expenses, and a fee of five dollars (\$5) for the issuance of the certificate of inspection. The beekeeping materials are also subject to quarantine as provided in this section.*"

Section 135. Section 82-810, R.C.M. 1947, is renumbered section 3-3108, and is amended to read as follows:

"3-3108. Importation of bees in combless packages. *A person or common carrier may not transport or bring into this state bees in combless packages unless they are accompanied by a certificate of health issued by the official inspector of the state or country from which they came.*"

Section 136. Section 82-811, R.C.M. 1947, is renumbered section 3-3109, and is amended to read as follows:

"3-3109. Disposition of fees. *Registration and inspection fees collected under this chapter shall be transmitted by the department to the state treasurer, who shall deposit the monies to the credit of the general fund.*"

Section 137. Section 82-812, R.C.M. 1947, is renumbered section 3-3110, and is amended to read as follows:

"3-3110. Penalties. *A person violating this chapter is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500), or imprisoned in the county jail not exceeding one (1) year, or both fined and imprisoned."*

Section 138. Section 82-813, R.C.M. 1947, is renumbered section 3-3111, and is amended to read as follows:

"3-3111. Separability of act. *If any clause, sentence, section, paragraph, part or portion of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, unconstitutional or inoperative, such judgment does not affect, impair or invalidate the validity of the chapter as a whole, or the remainder of this or any part thereof which can be given effect, but shall be confined in its operation to the particular clause, sentence, section, paragraph, part or portion directly adjudged to be so invalid, unconstitutional or inoperative."*

Section 139. Section 82-814, R.C.M. 1947, is renumbered section 3-3112, and is amended to read as follows:

"3-3112. Orders effective until reversed or modified by court. *Until reversed or modified by a court of competent jurisdiction an order or rule adopted by the department, including an order refusing a permit for the establishment of a new apiary location, is effective until reversed or modified by a final decision, or final judgment, and while such action is pending, as defined in section 93-8706. An injunction or other process or writ may not be issued by a court restraining enforcement until that final determination."*

Section 140. Section 82-1501, R.C.M. 1947, is amended to read as follows:

"82-1501. State board of hail insurance — creation and powers — insurance, how effected. (1) *There is a state board of hail insurance of five members consisting of the state treasurer, the director of agriculture, who is secretary of the board, and three other members to be appointed by the governor from names submitted by farmer organizations having a general membership throughout the state. The governor shall designate one of the appointive members to act as chairman of the board. Whenever the term of any member expires, either by death, resignation, removal for cause, or expiration of his term of office, the governor shall appoint his successor, and shall also appoint one of the board for chairman in case of a vacancy in that office.*

(2) *Each appointive member of the board shall be appointed for three years, except where such appointment is made to fill a vacancy on the board, in which event such appointee shall fill out the unexpired term of the member whose place he fills. All members of the board shall be subject to removal for cause by the governor; the board shall hold meetings when necessary and essential for the proper conduct of its business, at the state capitol in the office of the secretary, and is hereby authorized, directed and empowered to make rules as it may from time to time find*

practical, necessary and beneficial for the *administration* of this act. It shall *prescribe* blank forms for all purposes necessary, proper and incidental to the effective operation and enforcement of this act; it shall *prescribe* a special form outlining the purposes, scope and benefits of this act in furnishing protection against loss by hail, at the actual cost of the risk to all taxpayers who may elect to become subject to the provisions of this act, *the form* to be submitted by the agent of the department of revenue in each county at the time in which the regular assessments of property are *made by the agents*, to each farmer in each county in the state engaged in growing of crops subject to injury or destruction by hail, on which forms each such farmer taxpayer shall signify whether he desires to become subject to the provisions of this act or not.

(3) Every farmer taxpayer who signifies his desire to become subject to the provisions of this act, shall file in the office of the county assessor the properly filled out form not later than August 15th, and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, hereinafter provided for, and shall share in the protection and benefits under the hail insurance provisions of this act. Such application for hail insurance shall be in full force and effect at noon the day following the acceptance of the same by the county assessor. Provided, however, that this act shall not be so construed as to empower anyone except the actual owner of the land to make such land subject to the hail tax provided in this act."

Section 141. Section 82A-301, R.C.M. 1947, is amended to read as follows:

"82A-301. **Department of agriculture — creation — head.** There is a department of agriculture. *The department head is a director of agriculture appointed by the governor in accordance with section 82A-106.*"

Section 142. There is a new section to be numbered 82A-301.1, R.C.M. 1947, which reads as follows:

82A-301.1. **Functions of department.** The department and its units are responsible for administering laws pertaining to agriculture, including, but not limited to:

- (1) Regulation of grain (Title 3, chapter 2);
- (2) Seed warehousemen (Title 3, chapter 3);
- (3) Bean warehousemen (Title 3, chapter 7);
- (4) Agricultural seeds (Title 3, chapter 8);
- (5) Barberry control (Title 3, chapter 10);
- (6) Horticulture (Title 3, chapter 11);
- (7) Nurseries and nurserymen (Title 3, chapter 12);
- (8) Orchards (Title 3, chapter 13);
- (9) Standard grades and brands (Title 3, chapter 14);
- (10) Commercial fertilizer (Title 3, chapter 17);
- (11) Mustard seed (Title 3, chapter 19);
- (12) Commercial feeds (Title 3, chapter 20);
- (13) Rural rehabilitation (Title 3, chapter 28);
- (14) Wheat research and marketing (Title 3, chapter 29);
- (15) Agricultural marketing (Title 3, chapter 30);
- (16) Apiculture (Title 3, chapter 31);
- (17) Itinerant merchants (Title 3, chapter 32);
- (18) Produce wholesalers (Title 3, chapter 33);

- (19) Apples, grades, and boxes (Title 3, chapter 34);
- (20) Pesticides (Title 27, chapter 2).

Section 143. Section 82A-304, R.C.M. 1947, is amended to read as follows:

"82A-304. **Montana wheat research and marketing committee — composition — qualification — term — allocation.** (1) *There is a Montana wheat research and marketing committee.*

(2) (a) *The committee consists of seven (7) members and three (3) ex officio, non-voting members.*

(b) *The governor shall appoint one member from each of the following districts:*

- (i) *District I, consisting of Daniels, Sheridan, and Roosevelt counties;*
- (ii) *District II, consisting of Valley, Phillips, Blaine, and Hill counties;*
- (iii) *District III, consisting of Liberty, Toole, Glacier, and Pondera counties;*
- (iv) *District IV, consisting of Chouteau and Teton counties;*
- (v) *District V, consisting of Lewis and Clark, Cascade, Judith Basin, Fergus, Petroleum, Meagher, Broadwater, Wheatland, Golden Valley, and Musselshell counties;*
- (vi) *District VI, consisting of Big Horn, Yellowstone, Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison, Jefferson, Silver Bow, Beaverhead, and all counties west of the continental divide;*
- (vii) *District VII, consisting of Garfield, McCone, Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer, Fallon, Powder River, and Treasure counties.*

(c) *The ex officio members are:*

- (i) *The director of the department of agriculture;*
- (ii) *The dean of agriculture of Montana state university;*
- (iii) *A representative of the grain trade in Montana elected by a majority of the appointed members.*

(d) *Each of the appointed members shall be a citizen of Montana, derive a substantial portion of his income from growing wheat in this state, and be a resident of and have farming operations in the district from which appointed. No more than four (4) of the appointed members may be of the same political party.*

(e) *A list of nominees for appointment may be submitted to the governor by the Montana farmers union, Montana farm bureau, Montana grange, and the Montana grain growers association. Names of nominees shall be submitted within ninety-one (91) days before the expiration of a committeeman's term.*

(3) (a) *The appointed members shall serve staggered terms of five (5) years. The ex officio representative of the grain trade shall serve at the pleasure of the committee.*

(b) A member may be removed by the governor, after a full public hearing before the governor, for malfeasance, misfeasance, or neglect of duty. Removal proceedings may not be started except upon duly verified written charges. The member shall be given a copy of the written charges at least ten (10) days in advance of the hearing. At the hearing, the member may be represented by an attorney and may present witnesses in his behalf.

(c) A member who ceases to reside in the state or in the district from which he was appointed, or who ceases to grow wheat in the state or district, is disqualified from membership and his office becomes vacant. If the member refuses to recognize his disqualification, the refusal is cause for removal.

(4) The committee is allocated to the department for administrative purposes only as prescribed in section 82A-108."

Section 144. Section 84-3001, R.C.M. 1947, is renumbered section 3-3201, and is amended to read as follows:

"3-3201. **"Itinerant merchant" defined.** For the purpose of this chapter, "itinerant merchant" means a person who buys, offers to buy, sells, or offers to sell in this state, at wholesale or retail, any produce as defined by section 3-3401, who does not hold a license under the provisions of chapter 34 of this Title, and transports the produce in this state by use of a motor vehicle, or by any other method of transportation, except as otherwise provided, or who has not secured a permit of exemption."

Section 145. Section 84-3002, R.C.M. 1947, is renumbered section 3-3202, and is amended to read as follows:

"3-3202. **"Established place of business" defined.** "Established place of business," for the purpose of this chapter means a permanent warehouse, building, or structure, in which a permanent business is carried on in good faith and not for the purpose of evading this chapter, and in which stocks of the property being transported are produced, stored, or kept in quantities reasonably adequate for, and usually carried for, the requirements of the business, and which is recognized, licensed, and taxed as a permanent business at the place. The term does not mean residences, tents, temporary stands or other temporary quarters, a railway car, or permanent quarters occupied under a temporary arrangement."

Section 146. Section 84-3003, R.C.M. 1947, is renumbered section 3-3203, and is amended to read as follows:

"3-3203. **Persons not included.** The term "itinerant merchant" does not include the following:

(1) A person using a motor vehicle owned by him, whether operated by him or his agent, for the transportation of produce produced by him on owned or leased premises, when the entire course of the transportation extends not more than one hundred fifty (150) miles from his residence, whether the residence is within or outside this state;

(2) A person handling produce grown by him who has secured from the department of agriculture, before offering the produce for sale, a permit of exemption. The permit shall be issued by the department upon

application and payment of a fee of one dollar (\$1). The applicant must first be able to satisfactorily show that he will sell, or offer for sale, only produce of his own production. The permit shall only allow the sale of produce of his own production and is forfeited if the holder sells or offers to sell any produce not of his own production;

(3) A person transporting property owned by him in a motor vehicle owned by him, whether operated by him or his agent, when the transportation is incident to a business conducted by him at an established place of business operated by him, either within or outside this state, and when the property is being transported to or from an established place of business, operated by him in this state;

(4) A person transporting property for his own consumption or use and not for sale."

Section 147. Section 84-3004, R.C.M. 1947, is renumbered section 3-3204, and is amended to read as follows:

"3-3204. **Who shall be exempt — affidavit.** No person is exempt from this chapter unless he or the driver of the motor vehicle upon which his property is being transported, upon the request of a peace officer or person charged with the enforcement of this chapter, executes an affidavit containing those facts the department requires and delivers the affidavit to the peace officer or person. The affidavit must clearly show that the person claiming the exemption is entitled to one or more of the exemptions provided in this chapter."

Section 148. Section 84-3005, R.C.M. 1947, is renumbered section 3-3205, and is amended to read as follows:

"3-3205. **Itinerant merchant license required.** A person may not engage in business as an itinerant merchant without obtaining a license from the department."

Section 149. Section 84-3006, R.C.M. 1947, is renumbered section 3-3206, and is amended to read as follows:

"3-3206. **Application for license — fee.** (1) An application for a license to engage in business as an itinerant merchant shall be made to the department upon forms prepared by it.

(2) A separate application and license is required for each motor vehicle to be operated. The application shall contain those facts the department requires. The fee for each license is one hundred dollars (\$100) for the calendar year in which it is issued, and each license expires December 31 of the calendar year in which issued. The proper fee shall accompany the application. The application shall be signed and sworn to by the applicant."

Section 150. Section 84-3007, R.C.M. 1947, is renumbered section 3-3207, and is amended to read as follows:

"3-3207. **Surety bond.** A license may not be issued until the applicant has filed a surety bond issued by a company authorized to do business in the state. The bond must first be approved by the department and shall

be for not less than one thousand dollars (\$1,000). *The bond shall be in a form prescribed by the department and shall be conditioned upon the delivery of honest weights, measures, or grades, accurate representation as to quality or class of produce, the actual payment of checks, drafts, or other obligations delivered by the itinerant merchant in exchange for the purchase of produce, and the payment of all other obligations incurred by him.*"

Section 151. Section 84-3008, R.C.M. 1947, is renumbered section 3-3208, and is amended to read as follows:

"3-3208. **License, issuance, form and display of.** Upon approval of the application and bond and upon compliance with this chapter, the department shall issue the applicant an itinerant merchant's license in a form prescribed by the department. The license shall at all times be carried by the driver of the motor vehicle described and is at all times subject to inspection by any person."

Section 152. Section 84-3009, R.C.M. 1947, is renumbered section 3-3209, and is amended to read as follows:

"3-3209. **License nontransferable.** A license issued under this chapter may not be sold or transferred, and a license may not be transferred from one vehicle to another, without the written consent of the department."

Section 153. Section 84-3010, R.C.M. 1947, is renumbered section 3-3210, and is amended to read as follows:

"3-3210. **Revocation of license.** After a hearing the department may revoke a license issued under this chapter for failure to comply with any law."

Section 154. Section 84-3011, R.C.M. 1947, is renumbered section 3-3211, and is amended to read as follows:

"3-3211. **Administrative rules.** The department shall adopt and enforce necessary and proper rules for the administration of this chapter."

Section 155. Section 84-3012, R.C.M. 1947, is renumbered section 3-3212, and is amended to read as follows:

"3-3212. **Offending vehicle to be kept in custody.** A motor vehicle operated in violation of this chapter shall be kept in the custody of a law enforcement officer or person authorized to enforce this chapter and may not be operated except under its authority and solely for the purpose of taking it to the nearest convenient place of custody, until this chapter has been complied with."

Section 156. Section 84-3013, R.C.M. 1947, is renumbered section 3-3213, and is amended to read as follows:

"3-3213. **Disposition of license fees.** All license fees received under this chapter by the department shall be deposited with the state treasurer and shall be used to defray the cost of administration and enforcement of this chapter."

Section 157. Section 84-3014, R.C.M. 1947, is renumbered section 3-3214, and is amended to read as follows:

"3-3214. **Construction of act.** Nothing in this act repeals or amends any statute delegating authority to any county or municipal corporation to license, tax, or regulate peddlers or itinerant merchants. This act does not repeal or amend any of the provisions of chapter 34 of this Title."

Section 158. Section 84-3015, R.C.M. 1947, is renumbered section 3-3215, and is amended to read as follows:

"3-3215. **Penalty.** A person violating this act is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200)."

Section 159. Section 84-3402, R.C.M. 1947, is renumbered section 3-3302, and is amended to read as follows:

"3-3302. **Produce wholesalers' license.** A person may not engage in or purport to be engaged in the business of a dealer at wholesale unless he is licensed by the department of agriculture. This chapter does not apply to a farmer or gardener selling his own products, and who shall when called upon to do so by the department furnish a sworn statement that the goods handled by him were actually grown by him. Employees of the department may for the purpose of this section administer the oath. Also, this chapter does not apply to a trucker operating for hire under a license issued by the public service commission and not buying or selling produce, to a dealer at retail, or to a consumer or group of consumers cooperatively obtaining produce for their own use only and not for resale."

Section 160. Section 84-3403, R.C.M. 1947, is renumbered section 3-3301, and is amended to read as follows:

"3-3301. **Definitions.** Unless the context requires otherwise, in this chapter:

(1) "Produce" means the natural products of the farm, and includes, but is not limited to, natural products of the orchard, vineyard, garden, and apiary, raw and manufactured (except grains, dairy products, livestock, poultry and poultry products), when handled for the purpose of resale.

(2) "Person" means an individual, group of persons, exchange, firm, copartnership, corporation, or association.

(3) "Dealer at wholesale" means a person who buys to sell at wholesale or contracts to buy to sell at wholesale, or who handles at wholesale on account of or as agent for another."

Section 161. Section 84-3404, R.C.M. 1947, is renumbered section 3-3303, and is amended to read as follows:

"3-3303. **Application for license — contents — bond — expiration date — schedule of commissions and charges to be filed.** (1) Licenses to engage in the business of a dealer at wholesale in this state shall be issued by the department to reputable persons who apply for a license and pay the prescribed fee.

(2) The application shall be in writing, accompanied by the prescribed fee, and under oath. *It shall state:* (a) the place where the applicant intends to carry on the business for which the license is desired; (b) the estimated amount of business to be done monthly; (c) the full names of the persons constituting the firm, if the applicant is a copartnership; (d) the names of the officers of the corporation, the place of incorporation, corporation; and (e) a financial statement showing the value and character in a general way of the assets and the amount of liabilities of the applicant.

(3) Before issuing a license, the department shall require the applicant to file with it a bond to this state in an amount to be fixed by the department based on the monthly business to be transacted by the applicant. The bond shall not be for less than one thousand dollars (\$1,000). The department may require additional bond if the business transacted warrants an increase, under penalty of revoking the license. The bond shall be executed by the applicant as principal and a surety company authorized to do business in this state as surety. The form of the bond shall be fixed by the department, conditioned upon: (a) faithful performance of his duties as a dealer at wholesale; (b) observance of all laws relating to the business of a dealer at wholesale; (c) payment, when due, of the purchase price of produce purchased by him; (d) for the prompt reporting of sales as required by law to all persons consigning produce to the dealer as licensee for sale on commission; and (e) the prompt payment to persons entitled to the proceeds of the sales less lawful charges, disbursements, and commissions. The bond shall cover all wholesale produce business transacted in this state.

(4) All licenses expire December 31 of each year. The license, or a certified copy of the license, shall be kept posted in the office of the licensee at each place in this state where he transacts business. The fee for each license is one hundred dollars (\$100) and for each certified copy of a license, one dollar (\$1). If a truck is the place of business the license fee for the first truck is one hundred dollars (\$100) and for each additional truck fifty dollars (\$50).

(5) The applicant shall file with the department a schedule of his commissions and charges for services in connection with produce handling on account of or as agent for another.

(6) A separate license is required for each place of business. Each truck used for assembling and distributing produce, other than from a permanently established place of business through which all business of sales and accounts is handled, is a separate place of business and must be licensed."

Section 162. Section 84-3405, R.C.M. 1947, is renumbered section 3-3304, and is amended to read as follows:

"3-3304. Investigation of applicant — hearings — grant or denial of license. The department shall examine each application and investigate the applicant and his business, business rating, character, and reputation. If, from the examination and investigation, the department determines that the applicant is in the matter of his business, business rating, char-

acter, and reputation not properly qualified to engage in business as a dealer, it shall refuse to grant a license and shall deny the application, and notify the applicant in writing of its decision. An applicant whose application is denied by the department may, within ten (10) days after the mailing of notice of rejection, petition the department for a hearing. The department shall afford the applicant an opportunity for a hearing on a date not less than ten (10) nor more than twenty (20) days after the receipt of the petition. A person who has objected to the licensing of the applicant shall be given at least ten (10) days' notice of the hearing by mail. After the hearing, the department shall grant or deny the application."

Section 163. Section 84-3406, R.C.M. 1947, is renumbered section 3-3305, and is amended to read as follows:

"3-3305. Records to be kept — contents. (1) Every dealer in produce shall keep a complete record of all produce handled by him. The record shall include:

- (a) The name and address of the producer or shipper;
- (b) The date of receipt of each consignment;
- (c) The kind and quantity of produce received;
- (d) The agreed purchase price or commission charged;
- (e) Date of sale;
- (f) Price at which sold;
- (g) The name of the person, firm, or corporation to whom sold;
- (h) An itemized statement of charges to be paid by the producer in connection with the sale;
- (i) The record shall be open for confidential inspection by the department."

Section 164. Section 84-3407, R.C.M. 1947, is renumbered section 3-3306, and is amended to read as follows:

"3-3306. Inspection and report concerning produce. When a dealer at wholesale, to whom produce has been shipped, is consigned for sale on a commission basis, or is on consignment, or has been shipped under any circumstances in which the title to the produce remains with the shipper, has received the produce, he shall within a reasonable time, make a written report to the shipper. The report shall include the exact time of arrival and the quantity and quality of the produce. If the produce is received in a decayed or damaged condition noticeable upon arrival, the dealer shall have the common carrier or the department make proper record certifying the condition. The dealer shall notify the consignor promptly so that the consignor can take further action to verify the report."

Section 165. Section 84-3408, R.C.M. 1947, is renumbered section 3-3307, and is amended to read as follows:

"3-3307. **Enforcement of chapter — hearings.** (1) *The department, upon its own motion may, or upon verified complaint against any dealer or any person, firm, exchange, association, or corporation assuming or attempting to act as such, shall make all investigations it considers necessary. The department shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage, and transportation or any other facilities or places in which any produce is kept, stored, handled, or transported. If the department, upon investigation, believes that a dealer is not acting in accordance with this chapter, or if a verified complaint is filed against any dealer, the department shall have personal service made on the dealer or shall mail by registered mail a complaint or a copy of the verified complaint against the dealer. If dealer fails to make informal adjustment or settlement of the charges, to the satisfaction of the department, the department shall give notice of the time and place of a formal hearing. Notice of the hearing shall be given at least twenty (20) days before the hearing and the hearing shall be held in the city or town in which the transaction complained of is alleged to have occurred.*

(2) *At the hearing, copies of records, inspection certificates, certified reports, and all papers on file in the office of the department are prima facie evidence of the matters contained in them.*

(3) *After the hearing, the department shall dismiss the charges, suspend the license of the dealer for a specified period, revoke the licenses, or make any other appropriate order considered just and proper. The order shall specify its effective date and any order other than one suspending or revoking a license shall automatically suspend the license until the order is complied with."*

Section 166. Section 84-3410, R.C.M. 1947, is renumbered section 3-3308, and is amended to read as follows:

"3-3308. **Effect of appeal to district court.** *If the revocation of the license of a produce dealer is appealed to a district court, the license remains in force until the final determination by the court. A license may not be refused during the time or on account of the pendency of any review proceedings."*

Section 167. Section 84-3413, R.C.M. 1947, is renumbered section 3-3309, and is amended to read as follows:

"3-3309. **Rules for enforcement of chapter.** *The department shall adopt rules for carrying out and enforcing this chapter."*

Section 168. Section 84-3414, R.C.M. 1947, is renumbered section 3-3310, and is amended to read as follows:

"3-3310. **Cooperation with similar agencies.** *The department shall cooperate with the United States department of agriculture and with other federal authorities, and with the state and municipal authorities of this and other states, and shall perform those other acts necessary in carrying out this chapter."*

Section 169. Section 84-3415, R.C.M. 1947, is renumbered section 3-3311, and is amended to read as follows:

"3-3311. **Disposition of license fees.** *All license fees received by the department under this chapter shall be paid into the state treasury and deposited in a revolving fund to be spent by the department upon approval of the state treasurer. All moneys so deposited shall be held for the department to use in carrying out this chapter."*

Section 170. Section 84-3416, R.C.M. 1947, is renumbered section 3-3312, and is amended to read as follows:

"3-3312. **Violation a misdemeanor — penalty.** *A person who violates this act, fails to comply with rules adopted under this chapter, or fails to obey an order of the department made under this chapter is guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than six (6) months, or both fined and imprisoned. The fine shall be paid into the state treasury and deposited as provided in section 3-3411."*

Section 171. Section 90-203, R.C.M. 1947, is renumbered section 3-3404, and is amended to read as follows:

"3-3404. **Designation of grade of bulk apples.** *Apples shipped or sold in bulk shall have two cards at least ten by twelve inches (10" x 12") in size attached to the doors of the car, or on each side of truck in which they are moved. The cards shall designate the grade of the apples contained in the car or truck as specified in section 3-3402 and shall be in legible printed letters at least two inches in height."*

Section 172. The codifier of the Revised Codes of Montana shall transfer sections 90-201, 90-202, 90-203 through 90-206 to Title 3, chapter 34, R.C.M. 1947, and shall renumber those sections as sections 3-3402, 3-3403, 3-3404, 3-3405 through 3-3407, respectively.

Section 173. Sections 3-101 through 3-106, 3-108, 3-109, 3-109.1, 3-110, 3-110.1, 3-111, 3-112, 3-115, 3-118, 3-120 through 3-122, 3-204, 3-304, 3-401 through 3-420, 3-501 through 3-511, 3-601 through 3-610, 3-701, 3-812, 3-815, 3-901 through 3-906, 3-1101, 3-1102, 3-1105, 3-1208, 3-1217, 3-1502 through 3-1509, 3-1601 through 3-1603, 3-1712, 3-1713, 3-1733, 3-1910, 3-1911, 3-2101 through 3-2109, 3-2901, 3-2903, 3-2905, 3-2907, 3-2910, 3-2912, 3-2914, 3-2918, 14-418, 80-501 through 80-505, 82-804.1, 82-804.4, 82-2901 through 82-2903, 82A-302, 82A-303, 82A-305, 84-3401, 84-3409, 84-3411, and 84-3412 are repealed.

Approved March 15, 1974

CHAPTER NO. 219

AN ACT ESTABLISHING THE RIGHTS AND OBLIGATIONS OF LANDLORDS AND TENANTS IN SECURITY DEPOSITS.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 42-301, R.C.M. 1947, which reads as follows:

42-301. **Definitions.** As used in this chapter: